UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF OKLAHOMA

DVORA WEINSTEIN and STEVEN S. WEINSTEIN, Individually and On Behalf of All Others Similarly Situated, Plaintiffs, vs. AUBREY K. MCCLENDON, DOMENIC J. DELL'OSSO, JR., MARCUS ROWLAND, MICHAEL A. JOHNSON, JEFFREY L. MOBLEY, HENRY HOOD and CHESAPEAKE ENERGY CORPORATION, Defendants.	Case No.: CIV-12-465-W **DEMAND FOR JURY TRIAL** Chief Judge Vicki Miles-LaGrange

CONSOLIDATED CLASS ACTION COMPLAINT
FOR VIOLATIONS OF FEDERAL SECURITIES LAWS

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Lead Plaintiff Ontario Teachers' Pension Plan Board ("Lead Plaintiff" or "Ontario Teachers'"), individually and on behalf of all other persons and entities who purchased or acquired the common stock of Chesapeake Energy Corporation ("Chesapeake" or the "Company") during the period between April 30, 2009 and May 11, 2012, inclusive (the "Class Period"), and who were damaged thereby, hereby allege the following based upon personal knowledge as to itself and its own acts, and upon information and belief as to all other matters.

Lead Plaintiff's allegations are based on Lead Counsel's investigation, which included, among other things: (i) a review and analysis of Chesapeake's public filings with the U.S. Securities and Exchange Commission ("SEC"); (ii) a review and analysis of research reports issued by financial analysts concerning Chesapeake; (iii) a review and analysis of other publicly available information concerning Chesapeake and its senior officers and directors, including Aubrey K. McClendon ("McClendon"), Domenic J. Dell'Osso, Jr. ("Dell'Osso"), Marcus Rowland ("Rowland"), Michael A. Johnson ("Johnson"); Jeffrey L. Mobley ("Mobley"); and Henry Hood ("Hood") (collectively, the "Individual Defendants"); and (v) discussions with and analyses prepared by consulting experts. Many of the facts supporting Lead Plaintiff's allegations are known only by Chesapeake and the Individual Defendants (collectively, "Defendants"), or are exclusively within their custody and control. Thus, Lead Plaintiff believes that substantial additional evidentiary support will be revealed after a reasonable opportunity for discovery.

I. NATURE OF THE ACTION

1. At the outset of the Class Period, in the spring of 2009, Chesapeake was confronted with two crises. First, Chairman and CEO Aubrey McClendon had just undergone a forced liquidation of nearly all of his 33.4 million shares of Chesapeake stock to cover $569 million in undisclosed margin loans. As a result of his concealed gamble on the Company's stock and resulting forced sales, Chesapeake's share price collapsed nearly 40 percent through late 2008. Second, as a consequence of McClendon's aggressive "land grab" strategy involving massive capital expenditures—$31.2 billion over the last 15 years—the Company was left overleveraged and very short on cash, resulting in the only "junk" credit rating among Chesapeake's peers.

2. Faced with a depressed share price and severe liquidity constraints, Defendants sought to reassure shareholders. As the Class Period began, Defendants announced to shareholders (i) that McClendon's compensation program was now focused on aligning McClendon's interests with those of the Company and its shareholders and putting him at risk to the same extent, and (ii) that Chesapeake was undertaking a new asset monetization strategy to specifically address the Company's excessive debt, liquidity constraints, and "junk" credit rating.

3. On the first day of the Class Period, April 30, 2009, to dispel the fear that McClendon's personal financial interests could again harm the Company and its share price, Defendants focused shareholders on the Company's Founder Well Participation Program ("FWPP"). This unique compensation scheme gave McClendon the right to acquire a financial interest in nearly every well Chesapeake drilled. With McClendon's

FWPP interest valued at over $400 million by the end of the Class Period, the program comprised substantially all of McClendon's personal financial interest in the Company.

4. The Company repeatedly claimed throughout the Class Period that the FWPP "***align[s] financial rewards and risks of Mr. McClendon with the Company***."[1] Indeed, on the first day of the Class Period, Chesapeake's General Counsel, Defendant Henry Hood, described the purported essence of the FWPP in a letter to *The Daily Oklahoman*, saying: "***The alignment of risk between Aubrey and the [C]ompany is unique and exemplary***." Indeed, Defendants stated that the FWPP was more effective in aligning McClendon's interests with Chesapeake and its shareholders than any other form of executive compensation. The Company also emphasized that the FWPP "***impos[ed] on the Founders the same risks incurred by the Company in its core operations***."

5. In reality, however, McClendon's interests were in direct conflict with shareholders. Contrary to Defendants' assurances that he had "skin in the game," and unbeknownst to shareholders, McClendon borrowed 100 percent of the cost of his FWPP participation during the Class Period using ***$1.55 billion in non-recourse loans***, meaning the loans were secured by nothing other than his interest in well production. McClendon's lenders could not reach his other assets.

6. As would be revealed, McClendon was only responsible for paying his share of the costs associated with drilling productive wells. The Company shouldered the costs associated with acquiring and exploring land, and assumed all of the risk if the land ultimately was deemed unproductive and not used for drilling. McClendon's concealed

[1] All emphasis herein is added unless otherwise noted.

incentive was to push the Company into excessive land acquisition and exploration costs, wildly exceeding public estimations, in order to maximize the potential upside of productive wells. McClendon had no downside. Indeed, at the end of the Class Period, shareholders and analysts were shocked to learn that Chesapeake's capital expenditures exceeded $2.48 billion for 2012 alone, 32 percent higher than their public estimate.

7. Defendants also fraudulently concealed that McClendon obtained his $1.55 billion in loans from Chesapeake's corporate lenders, principally EIG Global Energy Partners ("EIG"), a private equity fund. Far from having common interests with shareholders, McClendon's loan terms specified that he "take all commercially reasonable action" to ensure that Chesapeake "comply with . . . [McClendon's loan] covenants and agreements." Simply put, McClendon was obligated to act affirmatively on behalf of his lenders, even if adverse to the Company.

8. Analysts and investors alike were alarmed when they first learned of McClendon's secret loans on April 18, 2012, causing shareholders to flee the Company's shares. As *Forbes* reported: "the size of the loans is pretty shocking (***equal to more than one-tenth of Chesapeake's total long-term debt***), as is the ***clear and undeniable implication that McClendon is up to his eyeballs in conflicts*** that should ***lead every shareholder to question whether he has their interests or his own at heart***." Rating downgrades resulted, and both the Securities and Exchange Commission and the Internal Revenue Service opened investigations.

9. Notably, upon the revelations of McClendon's secret loans, Chesapeake's Board issued a press release stating that the "***Board of Directors is fully aware***" of the

transaction, only to be forced to recant its statement days later. Astonishingly, amidst the revelations concerning his secret financing, McClendon negotiated an additional loan from EIG of $450 million, bringing his total known FWPP-related debt to at least $1.55 billion by May 2012.

10. Simultaneous with McClendon's concealed personal financing, Defendants also deceived shareholders regarding the Company's liabilities and asset monetization strategy. Following the Company's land acquisition binge, Chesapeake's liquidity was of critical concern; as Defendants acknowledged, Chesapeake's debts were "a competitive disadvantage." Thus, at the outset of the Class Period, Defendants specifically assured shareholders that Chesapeake would execute its strategy to "live within our cash flow."

11. The centerpiece of the initiative was a new "strategic and financial plan" dubbed the "25/25 Plan," calling for a "25% reduction in our outstanding long-term debt while growing net natural gas and oil production by 25% by the end of 2012." A principal component of the strategy was the use of Volumetric Production Payments ("VPPs"), which, in essence, were deals that provided Chesapeake with up-front cash in exchange for long-term well production.

12. Though the VPPs were touted as a means to reduce liabilities, Defendants fraudulently concealed that the VPPs ***increased*** the Company's debt through off-balance sheet accounting. Shareholders, credit rating agencies, and analysts were shocked to learn that, through the VPPs, Chesapeake concealed at least ***$1.4 billion in off-balance sheet liabilities***.

13. Upon the revelation of the VPP liabilities, the entire asset monetization plan was suspended. The concealed liabilities threatened to breach Chesapeake's existing debt covenant, resulting in the suspension of as much as $14 billion in asset sales, required to maintain the Company's liquidity. In particular, Defendants were forced to immediately announce the suspension of the widely-anticipated Eagle Ford VPP.

14. The Company, desperate for cash, turned to its investment banking advisors on the Eagle Ford VPP, Goldman Sachs and Jeffries, for an immediate infusion of $4 billion. The terms of the bridge loan were nearly usurious in the current ultra-low interest rate environment: Chesapeake had no choice but to pay an interest rate of 8.5 percent, which will increase to 11.5 percent if the loan is not repaid by year-end.

15. As a result of Defendants' fraud, Chesapeake's stock price climbed steadily throughout the Class Period, reaching a high of nearly $36 per share. When investors learned the truth concerning McClendon's web of personal finances and conflicting interests, and Chesapeake's concealed off-balance sheet liability, Chesapeake's stock price tumbled in response to every revelation, ultimately closing at $14.81 per share on the last day of the Class Period, an overall drop of nearly ***60 percent***.

II. JURISDICTION AND VENUE

16. The claims asserted herein arise under and pursuant to Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78j(b), 78t(a), 78-t1(a), and Rule 10b-5 promulgated under Section 10 of the Exchange Act, 17 C.F.R. § 240.10b-5.

17. This Court has jurisdiction over the subject matter of this action pursuant to Section 27 of the Exchange Act, 15 U.S.C. § 78aa. In addition, because this is a civil action arising under the laws of the United States, this Court has jurisdiction pursuant to 28 U.S.C. § 1331.

18. Venue is proper in this District pursuant to Section 27 of the Exchange Act, 15 U.S.C. § 78aa, and 28 U.S.C. § 1391(b). Chesapeake resides and transacts business in this District, and maintains its principal executive offices in this District at 6100 North Western Avenue, Oklahoma City, Oklahoma. In addition, many of the acts and transactions that constitute the violations of law complained of herein, including the preparation and public dissemination of materially false and misleading statements and omissions, occurred in this District.

19. In connection with the acts alleged herein, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the U.S. mails, interstate telephone communications and the facilities of the national securities markets.

III. PARTIES

A. Lead Plaintiff

20. On July 20, 2012, this Court appointed Ontario Teachers' to serve as Lead Plaintiff for the Class in this consolidated class action pursuant to the Private Securities Litigation Reform Act of 1995 (the "PSLRA").

21. Ontario Teachers', located in Toronto, Canada, is the largest single-profession pension plan in Canada, representing approximately 300,000 active and retired

teachers in Ontario with over $117 billion in net assets. As set forth in the PSLRA certification attached hereto at Exhibit 1, Ontario Teachers' purchased over 3.66 million net shares of Chesapeake common stock on the New York Stock Exchange ("NYSE") at artificially inflated prices during the Class Period, and suffered damages as a result of the violations of the federal securities laws alleged herein.

B. Defendants

1. Defendant Chesapeake

22. Chesapeake is the second-largest producer of natural gas in the United States, and among the top 15 producers of oil and natural gas liquids. The Company is incorporated in Oklahoma and maintains its principal place of business and principal executive offices at 6100 North Western Avenue, Oklahoma City, Oklahoma. The Company's common stock is registered and traded on the NYSE using the ticker CHK.

2. Defendant Aubrey K. McClendon

23. Aubrey K. McClendon co-founded Chesapeake in 1989 and has served as the Company's Chief Executive Officer ever since. He also served as Chairman of the Board of Chesapeake from the Company's inception until June 21, 2012, when the Board stripped him of that role in the aftermath of the events alleged herein. McClendon made fraudulently false and misleading statements and omitted to state the truth during the Class Period as alleged herein.

3. Defendant Domenic J. Dell'Osso, Jr.

24. Domenic J. Dell'Osso, Jr. currently serves as Executive Vice President and Chief Financial Officer of Chesapeake. Dell'Osso also served as Chief Financial Officer

of Chesapeake's wholly owned midstream subsidiary Chesapeake Midstream Development, L.P. from August 2008 to November 2010. Dell'Osso made fraudulently false and misleading statements and omitted to state the truth during the Class Period as alleged herein.

4. **Defendant Marcus Rowland**

25. Defendant Marcus Rowland served as Chesapeake's Chief Financial Officer (beginning 1993) and Executive Vice President of Finance (beginning 1998) until October 29, 2010. During the Class Period, Rowland was also a member of the Company's Compensation Committee. Rowland made fraudulently false and misleading statements and omitted to state the truth during the Class Period as alleged herein.

5. **Defendant Michael A. Johnson**

26. Defendant Michael A. Johnson served as Chesapeake's Chief Senior Vice President - Accounting, Controller, and Chief Accounting Officer beginning in 2000. Johnson made fraudulently false and misleading statements and omitted to state the truth during the Class Period as alleged herein.

6. **Defendant Jeffrey L. Mobley**

27. Jeffrey L. Mobley currently serves as Senior Vice President – Investor Relations and Research. He has served in that role since February 2006. Mobley made fraudulently false and misleading statements and omitted to state the truth during the Class Period as alleged herein.

7. **Defendant Henry Hood**

28. Henry J. Hood served as Chesapeake's General Counsel from April 2006 to June 2012. From April 2006 to the present, he has also served as Senior Vice President—Land and Legal. Hood made fraudulently false and misleading statements and omitted to state the truth during the Class Period as alleged herein.

* * *

29. Facts that are critical to Chesapeake's "core operations" are presumably known by its key officers, including each of the Individual Defendants. In addition, the Individual Defendants, by virtue of their positions as Chesapeake's senior executive officers, directly participated in the management of the Company, were directly involved in the day-to-day operations of the Company at the highest levels, and were privy to confidential proprietary information concerning Chesapeake and its business, operations, growth, financial statements, and financial condition, as alleged herein.

30. Moreover, the Individual Defendants were involved in drafting, producing, reviewing, and/or disseminating the false and misleading statements and omissions alleged herein, were aware, or recklessly disregarded, the fact that the false and misleading statements and omissions were issued by the Company, and approved or ratified these statements, in violation of the federal securities laws.

31. As officers and controlling persons of a publicly-held company, whose shares are registered with the SEC and traded on NYSE, the Individual Defendants had a duty to disseminate prompt, accurate and truthful information with respect to Chesapeake, and to correct any previously-issued statements that had become materially

misleading or untrue, so that the market price of the Company's common stock would be based upon truthful and accurate information. The Individual Defendants each violated these specific requirements and obligations during the Class Period.

IV. SUBSTANTIVE ALLEGATIONS

A. Company Background

32. Defendant McClendon co-founded Chesapeake in 1989, and the Company made its initial public offering in 1993. As Chesapeake grew, McClendon drove the Company to become a highly-leveraged land acquisition company, with extraordinary capital expenditures. More than any of its industry peers, Chesapeake developed a "land grab" strategy, often overpaying for large acreage parcels of land with potential stores of natural gas. Indeed, Chesapeake outspent ExxonMobil, a company with revenues 35 times greater, on land acquisition by over $4 billion in the last 15 years. The Company reported a net capital expenditure of $19.3 billion over the Class Period.

1. Chairman and CEO McClendon Dominated Chesapeake

33. The Company is closely identified with its founder, Defendant McClendon. McClendon started his career as a "landman," the industry term for brokers who buy up oil and gas leases on behalf of large energy companies. He continued to involve himself in the minutia of parcel acquisition as he aggressively executed the Company's leasehold acquisition strategy.

34. Indeed, as Chairman of the Board of Directors and CEO, McClendon dominated all dimensions of the Company's enterprises. He was "involved in every aspect of the company, from its complex financial dealings to the music it offers at its

campus gym and the upscale grocery store he convinced to open near its headquarters." *The Wall Street Journal*, Board Turns on Chesapeake's CEO, April 26, 2012.

35. The Company boasted about the benefits of McClendon's joint role as both Chairman and CEO, stating that the arrangement "***best serve[s] the interests of the Company and its shareholders***." This leadership is unique—few executives have controlled their publicly-held companies as closely as McClendon has over his 23-year reign of Chesapeake, prompting reports that "Aubrey McClendon operates that company in his own image." *Bloomberg*, Chesapeake's Outlook Dims Amid Board Reversal on CEO Loans, April 27, 2012.

36. The Company also boasted of rigorous internal controls throughout the Class Period—controls that would purportedly protect from abuses of power, conflicts of interests, and falsified disclosures. On an earnings conference call early in the Class Period, McClendon declared that "Chesapeake prides itself on transparency and direct communication with our shareholders."

37. Chesapeake proactively adopted a Code of Business Conduct and Ethics, which includes a prohibition that its officers "must avoid situations that create a conflict of interest or the appearance or potential for a conflict of interest" and that they "may not personally take for yourself opportunities that are developed through the use of Company resources, information or position; use Company property, information or position for personal gain, or compete with the Company." And in every quarterly report during the Class Period, the Company stated that McClendon and the Company's CFO had

reviewed and endorsed the Company's disclosure process and found that its "disclosure controls and procedures are effective."

2. McClendon's 2008 Personal Financial Crisis Shocked Investors And Caused Chesapeake's Share Price To Collapse

38. Undisclosed to shareholders, by the end of 2008, McClendon had accumulated over $600 million in personal debt secured by his Chesapeake stock—*i.e.*, margin loans that McClendon's stock brokers could call if Chesapeake's share price declined. When Chesapeake's stock price declined in 2008 due to the Company's poor earnings, excessive spending, and exploding debt, McClendon was forced to sell over 31 million Chesapeake shares to cover $569 million in margin calls from his brokers. With McClendon's forced sales of nearly all of his Chesapeake holdings, Chesapeake's share price collapsed from a high of $26.50 on Monday, October 6, 2008 to a low of $16.52 by the end of the week—***nearly 40 percent***.

39. Chesapeake was forced to bail out McClendon. Rather than holding McClendon accountable for shareholders' losses, in 2008, the Board, controlled by McClendon, made him the highest-paid CEO of any S&P 500 company. His compensation was a staggering $112 million, with an additional $12.1 million to McClendon for the purchase of a set of antique maps from his personal art collection.

B. To Regain Shareholders' Confidence In Chesapeake, Defendants Fraudulently Stated That McClendon's Interests Were Fully Aligned, Focusing On The FWPP

40. McClendon's personal financial crisis crippled the Company and its share price. In response, at the outset of the Class Period, Defendants initiated a campaign to

convince shareholders that McClendon's interests were fully aligned with shareholders', and that McClendon would not gamble on the Company's business for his personal benefit.

41. The centerpiece of this campaign was the FWPP, which tied McClendon's principal compensation to the Company's gas and oil wells. Under the program, McClendon's compensation included his right to receive a 2.5 percent interest in all gas wells drilled by or on behalf of Chesapeake during a given calendar year. McClendon was required to decide whether to participate in the FWPP on an annual basis, and his participation was for "all or none of the wells;" he was not permitted to participate in only selected wells. Under the disclosed terms, McClendon was purportedly required to reimburse the Company "for costs associated with leasehold [he] acquired." By year-end 2011, McClendon valued his FWPP interest at over ***$400 million***.

1. Defendants Touted FWPP To Assure Investors That McClendon's Interests Were Fully Aligned With Investors'

42. From the program's inception, Defendants characterized the FWPP as the means to "***align[] the financial rewards and risks of the Founders with the Company***." *See*, *e.g.*, Form 14A Proxy Statement filed April 29, 2005. Specifically, Defendants asserted that the FWPP "***impos[ed] on the Founders the same risks incurred by the Company in its core operations***." *Id.*

43. At the start of the Class Period, on April 30, 2009, Chesapeake's General Counsel Henry Hood issued an unprecedented letter to *The Daily Oklahoman*, expressly attempting to justify McClendon's compensation and to assuage investors' fears arising

from McClendon's personal dealings. According to Hood, under the FWPP "***the alignment of risk between Aubrey and the Company is unique and exemplary***." Hood explained that the FWPP required McClendon to "***take drilling and gas price risk alongside the Company.***"

44. Hood also argued that the distribution of Company well stakes to McClendon was an optimal compensation method, going as far as to state that similar plans could have prevented the 2008 economic crisis: "[w]e suspect if the executives on Wall Street had been required to invest all of their net bonuses in a cross section of their Company's investments, our country would not find itself in the current financial crisis." Hood assured investors that McClendon's employment agreement required that he "***refrain from outside activities that might be inconsistent with the best interests of the Company***."

45. Throughout the Class Period, each time the Defendants discussed the FWPP, they reiterated that McClendon's financial risks and rewards were aligned with the Company. For instance, in the Company's 2009 Proxy,[2] Defendants stated that the FWPP was effective at "***aligning the financial rewards and risks of Mr. McClendon with the Company***." The public filing, like Hood, expressly stated that the FWPP "***impos[ed] on Mr. McClendon the same risks incurred by the Company in its exploration and production operations***." Indeed, the Proxy stated that the FWPP was

[2] Chesapeake's statutory filings with the SEC during the Class Period that are at issue in this action are identified and defined below, at Section V.

"more effective[]" than other performance incentive programs maintained by many of the Company's peers.

2. Defendants Had A Duty To Disclose McClendon's Financing Of His FWPP Interest Under Securities Laws

46. Unbeknownst to shareholders, as detailed further below, McClendon's interests were in fact in conflict with Chesapeake's, and McClendon did not put any of his personal assets at risk, as the entirety of his FWPP interest was acquired through over $1.55 billion in non-recourse loans.

47. Defendants' obligations to disclose McClendon's personal financing arrangements arise in part from standards promulgated by the SEC and Generally Accepted Accounting Principles ("GAAP"). GAAP is the official standard for accounting accepted by the SEC, and is recognized by the accounting profession as conventions, rules and procedures necessary to define accepted accounting practices at a particular time. It consists of a hierarchy of authoritative literature, in which the highest authority is the Accounting Standards Codification ("ASC"). SEC Regulation S-X Item 4-01(a)(1) provides that financial statements filed with the SEC that are not presented in accordance with GAAP will be presumed to be misleading, despite footnotes or other disclosures. 17 C.F.R. § 210.4-01(a)(1).

48. At all times throughout the Class Period, Chesapeake asserted that the Company's "consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States of America ('GAAP')."

49. GAAP standards governing the disclosure of related party transactions, set forth in ASC No. 850, "Related Party Disclosures" ("ASC 850"), specifically govern Defendants' disclosures of McClendon's concealed personal loans. That provision requires: "Information about ***transactions with related parties that would make a difference in decision making shall be disclosed so that users of the financial statements can evaluate their significance***. Therefore, this Topic establishes requirements to disclose certain significant related party transactions and control relationships." ASC 850-10-10-1.

50. ASC 850 specifically requires disclosure of four elements of related party transactions:

> a) The nature of the relationship;
>
> b) A description of transactions and the effects of those transactions reflected in the financial statements for each period for which an income statement is presented;
>
> c) The dollar amount of transactions for each period for which an income statement is presented and the effects of any change in the terms of such transactions as compared to the terms used in prior periods; and
>
> d) Amounts due to and from related parties as of the date of each statement of financial position presented, together with the terms and manner of settlement.

ASC 850-10-50-1.

51. ASC 850 defines Related Parties to include "other parties with which the enterprise may deal if ***one party controls or can significantly influence*** the management or operating policies of the other to an extent that one of the transacting parties might be prevented from fully pursuing its own separate interests." ASC 850-10-20.

52. The SEC also regulates the disclosure of related party transactions. Item 404(a) of SEC Regulation S-K requires registrants to "[d]escribe any transaction, since the beginning of the registrant's last fiscal year, or any currently proposed transaction, in which the registrant was or is to be a participant and the amount involved exceeds $120,000, ***and in which any related person had or will have a direct or indirect material interest***." Among other things a registrant must disclose about related-party transactions, the registrant must disclose:

> 2) The related person's interest in the transaction with the registrant, including the related person's position(s) or relationship(s) with, or ownership in, a firm, corporation, or other entity that is a party to, or has an interest in, the transaction. . . .
>
> 6) Any other information regarding the transaction or the related person in the context of the transaction that is material to investors in light of the circumstances of the particular transaction.

Regulation S-K, Item 404(a).

Transactions Between McClendon and Chesapeake

53. Defendants have publicly acknowledged that transactions between McClendon and Chesapeake qualified as related party transactions. Indeed, Chesapeake's financial statements, under the heading "Related Party Transactions," disclosed the FWPP transactions; for example:

> As of December 31, 2009, we had accrued accounts receivable from our CEO, Aubrey K. McClendon, of $14 million representing joint interest billings from December 2009 which were invoiced and timely paid in January 2010. Since Chesapeake was founded in 1989, Mr. McClendon, has acquired working interests in virtually all of our natural gas

> and oil properties by participating in our drilling activities under the terms of the Founder Well Participation Program ("FWPP") and predecessor participation arrangements provided for in Mr. McClendon's employment agreements.

2009 10-K. *See also* 2010 10-K; 2011 10-K.

54. However, as specifically alleged herein, these disclosures concealed that McClendon's FWPP interest was entirely financed through as much as $1.55 billion in non-recourse loans. Under the applicable disclosure requirements, those loans "***make a difference in decision making***," particularly given their magnitude and terms. And the loans clearly involved a related party, McClendon, with "***a direct or indirect material interest***." Accordingly, Defendants were required to disclose McClendon's secret financing pursuant to both ASC 850 and Item 404(a) of Regulation S-K.

Transactions Between McClendon And Chesapeake's Lenders

55. ASC 850 also required Defendants to disclose that McClendon's FWPP financing came from Chesapeake's own lenders. As set forth further below, both the existence and the terms of McClendon's loans did, let alone could, "significantly influence" McClendon to act in the interest of EIG and its investors rather than in the interest of Chesapeake and its shareholders. Accordingly, GAAP required full disclosure of the transactions between McClendon and EIG. Further, given EIG's role as the primary financer of McClendon's participation in the FWPP, EIG had the ability to influence Chesapeake's management in its own separate transactions with the Company. This is a separate basis for the related party disclosure under GAAP.

56. Similarly, these disclosure requirements are applicable to all of McClendon's lending arrangements with other banks and financial institutions that touched upon his interests in the Company's assets.

Executive Compensation Disclosures

57. In addition, the SEC provides specific mandates on disclosures of executive compensation. Item 403(b) of SEC Regulation S-K was amended, effective November 7, 2006, to add "a requirement for footnote disclosure of the number of shares pledged as security by named executive officers, directors, and director nominees." SEC Release No. 33-8732A. Pursuant to Item 402(b), "[t]he same disclosure provisions governing required disclosure about option grants also govern disclosure about restricted stock and other ***non-option equity awards***." The language of Item 403(b) is defined broadly and required Defendants to disclose McClendon's FWPP interests that have been used as collateral—pledged—for his EIG loans. Regulation S-K, Questions and Answers of General Applicability, Section 118, Item 402(b), Question 118.01.

C. Chesapeake Embarked On An Asset Monetization Strategy, Purportedly To Improve Debt Levels, But Concealed True Liabilities

58. As set forth above, at the outset of the Class Period, shareholders were deeply concerned about Chesapeake's ever increasing expenditures and debt levels. As the only publicly traded "junk" rated company (*i.e.*, below investment grade) of its size in the oil and gas industry, Defendants conceded that the Company's debt level was a strategic disadvantage. To specifically address shareholders' concerns, Defendants announced that Chesapeake was going to implement a debt reduction and liquidity

strategy. To that end, Defendants touted the VPPs—the Volumetric Production Payments—as a principal vehicle for the strategy. What they concealed, however, was that their so-called debt reduction strategy resulted in ***$1.4 billion in additional off balance sheet liabilities***—a fact that Defendants were required to disclose.

1. Chesapeake Announces Asset Monetization Strategy In The Face Of Shareholder Concerns

59. For several years leading up to the start of the Class Period, Chesapeake, under McClendon's mandate, had undertaken an aggressive "land grab" strategy. The Company spent over $31.2 billion acquiring exploration properties over the last 15 years. As a result of this aggressive exploration campaign, by the outset of the Class Period, Chesapeake carried nearly $13 billion in long-term debt. Rather than profit from the expenditures, by early 2009, Chesapeake was facing a sharp drop in gas prices and a perilous financial condition.

60. At the outset of the Class Period, in the Q1 2009 10-Q, Chesapeake announced a "plan to increase our liquidity, reduce our borrowings under our revolving credit facility and also strengthen our balance sheet through asset monetizations." Rowland reaffirmed, during a May 2009 UBS Oil & Gas Conference, the new "business strategy" would focus on a "continuation of monetization so that we live within our cash flow."

61. In response to Defendants' new strategy, analysts responded with rating upgrades. For instance, an analyst at Morgan Stanley concluded, following the May 12,

2009 Earning Call, “we see merit to CHK’s operating plan and expect the strategy to support outperformance.”

62. McClendon personally declared during the Q2 2009 Earnings Call that “we will substantially deleverage Chesapeake’s balance sheet and have investment grade credit metrics by year end 2010.” Critical to their ability to manage Chesapeake’s balance sheet, Defendants explained that they “retain a significant degree of control over the timing of our capital expenditures[,] which permits [them] to defer or accelerate certain capital expenditures if necessary to address any potential liquidity issues. *See, e.g.*, Q2 2009 10-Q.

63. Throughout the Class Period, Defendants routinely updated shareholders with the status of their monetization strategy. For instance, Defendants affirmed in Chesapeake’s Q2 2010 10-Q: “the company remains committed to achieving investment grade credit metrics by no later than year-end 2012.”

64. Defendants soon amplified their strategy, announcing the so-called 25/25 Plan—a plan to decrease debt by 25 percent and increase production by the same amount. As McClendon declared on January 6, 2011, the “plan represents a fundamental shift from our aggressive asset accumulation of the past few years to a multi-year period of asset harvest, characterized by a clear focus on capital discipline and maximizing returns.” The explicit goals of the plan, as stated in the 2010 10-K, were to reduce Chesapeake’s debt, lower borrowing costs, and increase financial flexibility. Defendants believed that improved credit metrics would lead to a more favorable debt rating by the

major ratings agencies. At bottom, Defendants tied the 25/25 Plan to the goal of an "***increase [in] our stock market valuation***."

2. VPPs Become A Primary Monetization Tool For Chesapeake

65. A principal vehicle for Defendants' asset monetization strategy was the use of VPPs. In a VPP transaction, Chesapeake promised to deliver to the counterparty a specified amount of the Company's future well production; in exchange, Chesapeake received from the counterparty an immediate, up-front payment. Through the deal, Chesapeake incurred liabilities in the form of (i) the well's production and (ii) payment of production costs.

66. Defendants explained that Chesapeake was uniquely suited to reap the benefits of VPPs, rendering the transactions more favorable than traditional asset sales. During the February 18, 2010 Earnings Call, Rowland, in response to an analyst's direct question, touted the benefits of VPP transactions over sales, including favorable tax treatment for the transactions.

67. On the same call, McClendon asserted that Chesapeake is unique in benefiting from VPPs, proclaiming that the "whole [VPP] market is ours." Similarly, during the May 5, 2010 Earnings Call, McClendon reiterated in response to a question: "we're thrilled that other people don't [use VPPs] because there's less competition into the financial market. . . . We like them, though, because we are able to monetize mature assets at what, we think, is a very favorable value." Roland chimed in: "we don't have any obligation except to deliver their volumes to them in the form of cash. . . . So, ***there***

is no ongoing dollar obligation for us at all." As Defendant Dell'Osso put it, this is a "strategy we will always employ." May 24, 2011 Investor Call.

68. With shareholders and analysts focused on the 25/25 Plan, Defendants repeatedly highlighted the billions in proceeds generated from the VPP transactions as the means to reduce Chesapeake's debt. In all, the Company entered into ten VPPs during 2008-2012, with proceeds totaling in excess of $6.3 billion:

CHK'S VPP Summary	**VPP1**	**VPP2**	**VPP3**	**VPP4**	**VPP5**	**VPP6**	**VPP7**	**VPP8**	**VPP9**	**VPP10**	**Total**
Location	KY, WV	KS, OK, TX	OK	AR, OK	TX	LA, TX	NM, TX	TX	OK	OK, TX	
Effective Date	Dec. 2007	May 2008	Aug. 2008	Dec. 2008	Aug. 2009	Feb. 2010	June 2010	Sep. 2010	May 2011	Mar. 2012	
Original Term (years)	15	11	11	8	7.5	10	10	5	10	10	5 - 15
Gross Proceeds	**$1,100**	**$622**	**$600**	**$412**	**$370**	**$180**	**$335**	**$1,150**	**$853**	**$744**	**$6,366**

Note: Grey columns indicate Class Period VPPs.

69. Defendants' characterization of the VPP benefits was very well received. Indeed, just days before the end of the Class Period, in a May 1, 2012 report, Morningstar concluded that "the financing methods [Chesapeake] put in place at that time—most notably volumetric production payments, or VPPs . . . served as an essential financing tool for the firm as it expands its operations." In the same report, Morningstar asserted, "we're bullish on the company's ability to increase production and reserves going forward, given management's knack for creatively financing its operations."

70. The VPP strategy remained prominent even while McClendon's secret FWPP obligations were being revealed. During the Company's May 2, 2012 earnings call, in response to a question from an RBC Capital Markets analyst about the

Company's "next few important" asset monetizations, both the analyst and the Company focused on the Eagle Ford VPP and how it would be going forward in the "not too distant future."

71. While showcasing the VPP proceeds, however, the Company fraudulently concealed that, in fact, Chesapeake had incurred at least ***$1.4 billion in off-balance sheet liabilities*** associated with these very same transactions.

3. Defendants Had A Duty To Disclose The Concealed Liabilities Associated With The VPPs

72. As Defendants were forced to concede after the Class Period, VPPs are "off-balance sheet" transactions that require explicit disclosure under the Sarbanes-Oxley Act of 2002 ("SOX") and SEC Regulation S-K The disclosure requirements are critical; concealment of Chesapeake's off balance sheet VPP liabilities dramatically altered the Company's financial health and credit metrics.

73. Congress passed SOX as a result of the fraud that took place at Enron in December of 2001. The Enron collapse focused Congress on fraud emanating from weak internal controls, misleading off-balance sheet entities, and conflicting interests. SOX Section 401(a) includes requirements for reporting information for all "off-balance sheet" arrangements—*i.e.* transactions in which Chesapeake maintains a fixed obligation or interest despite removing the assets from its balance sheet.

74. As it relates to Chesapeake's VPP transactions, an off-balance sheet arrangement is defined to include "agreement[s] or other contractual arrangement[s] with an unconsolidated entity, under which the company has any obligation under certain

guarantee contract." Under the statute, Chesapeake was required to report the amounts of cash flows, revenues, and ***expenses*** for the company arising from these arrangements.

75. Separately, SEC Regulation S-K Item 303(a) requires disclosure in an issuer's Management Discussion and Analysis portion of its annual reports of "information that the registrant believes to be necessary to an understanding of its financial condition, changes in financial condition and results of operations." Item 303(a)(1) specifies that this includes "commitments . . . ***that will result in or that are reasonably likely to result in the registrant's liquidity increasing or decreasing in any material way***." 17 C.F.R. 229.303(a)(1). Continuing, the standards specify the reporting requirements for "off-balance sheet arrangements," such as VPPs:

> (i) ***In a separately-captioned section***, discuss the registrant's ***off-balance sheet arrangements that have or are reasonably likely to have a current or future effect*** on the registrant's financial condition, changes in financial condition, revenues or ***expenses***, results of operations, liquidity, capital expenditures or capital resources that is material to investors.

SEC Regulation S-K Item 303(4)(i). When "[o]ff-balance sheet arrangements" are at issue, the regulation further specifies that "***expenses***" of the registrant and "***indebtedness***" incurred by the registrant in connection with such arrangements, must be identified. Regulation S-K Item 303(a)(4)(i)(C).

76. Indeed, the SEC had confronted Defendants regarding their disclosure obligations arising from these very provisions. Following the Company's first VPP transaction, the SEC issued its May 30, 2008 comment letter to Chesapeake raising various concerns about the Company's related disclosures. In connection with this single

transaction, Defendants argued that, while they acknowledged future operating costs of only $90 million, they "expect[ed] the VPP will have an ***immaterial impact*** on our liquidity in future periods."

77. Despite the fact that Chesapeake sold ***nine more VPPs*** during the Class Period, with future operating costs exploding to ***$1.4 billion***, or over 10 percent of the Company's total liabilities, Defendants continued to conceal the truth regarding these off-balance sheet liabilities.

D. <u>The Truth Materializes, Causing Shareholders' Losses</u>

78. Unbeknownst to shareholders, McClendon funded his entire participation in the FWPP during the Class Period by taking at least $1.55 billion in undisclosed, non-recourse loans. These loans were only collateralized by McClendon's stake in Company wells. In other words, if the wells failed to produce sufficiently to repay his lenders, McClendon's other assets were beyond the lenders' reach. These revelations were first disclosed on April 18, 2012, the first day of a series of corrective disclosures. On this news, Chesapeake's stock price dropped by $1.06 per share to close at $18.06, a one-day decline of nearly 6 percent on volume of 93.5 million shares, more than six times the average daily volume of the Class Period of 14.7 million shares. By the end of the week, after sliding three straight days on continuous coverage and analysis, Chesapeake's stock closed on April 20th at $17.44, down nearly 10 percent.

79. Strikingly, on April 18, shareholders learned, contrary to Defendants' statements that McClendon's interests were aligned with Chesapeake's, the terms of his mortgages expressly required McClendon "to take all commercially reasonable action" to

ensure that other owners and operators of the wells—including Chesapeake—"comply with . . . covenants and agreements" of the loans. In other words, McClendon's interests were aligned with his personal lenders, not with Chesapeake or its shareholders. *Reuters*, Special Report: Chesapeake CEO took $1.1 billion in shrouded personal loans, April 18, 2012.

80. McClendon's loans were on extremely favorable terms for his lenders. At least one loan required that McClendon's lender be paid 100 percent of the cash flow generated by his well interest until the lender had been fully repaid, plus a 13 percent return. The loan terms further provided that, even after repayment, the lender receive a 42 percent share of the well profits in perpetuity.

81. McClendon's secret debts explain, at least in part, why at a time when natural gas markets were fully saturated and prices were declining to recent lows, McClendon drove Chesapeake to incur massive acquisition and drilling costs. Under his concealed loan terms, McClendon's collateral included his interests in wells that had not even been awarded through the FWPP. The terms of the FWPP prohibited McClendon from assigning interests in wells that he had yet to obtain. Under the terms of his loans, however, McClendon (i) obligated himself to participate in the program each subsequent year and (ii) pledged prospectively the interest in the Company's wells he would receive—a violation of the FWPP terms. Simply put, while Chesapeake faced a historic supply glut, McClendon's personal interest was to continue to acquire, explore, and drill.

82. Furthermore, McClendon was responsible for costs only if a well was successfully drilled. Contrary to Defendants' statements, McClendon was not at risk for

any of the massive expenses Chesapeake incurred to acquire land where drilling either did not occur or was not successful. As *Forbes* summarized on April 19, 2012: "***McClendon only participates in the good acreage***; he doesn't get docked for the bad acreage Chesapeake has no use for." Chesapeake's strategy, for which McClendon's personal motivation was suddenly revealed, is to "scoop[] up promising acreage across America, paying billions to secure the rights to drill." But, "[w]hen land turns out not to be worth drilling, the millions sunk into accumulating it is lost . . . . Thus ***[McClendon] is absolutely guaranteed*** to get better opportunities and better returns than Chesapeake's shareholders. ***He shares in the boons and avoids the banes***."

83. The size of McClendon's loans—equal to more than ***one-tenth of Chesapeake's total long-term debt***—shocked shareholders. As one reporter put it, McClendon's loans had the "clear and undeniable implication that ***McClendon is up to his eyeballs in conflicts*** that should ***lead every shareholder to question whether he has their interests or his own at heart***." *Forbes*, Why Chesapeake Shareholders Should Worry About McClendon's Big Borrowing, April 19, 2012.

84. In an attempt to calm investors' reactions and the corresponding effect on the share price due to the revelations of McClendon's personal financing and the attendant conflicts of interest, Defendant Hood falsely claimed in an April 18, 2012 press release that the Company's directors were "fully aware of the existence of Mr. McClendon's financing transactions." On April 26, the Board was forced to disavow this false assurance, asserting, instead, that it was only "***generally aware***" that

McClendon had used his interests in Company-operated wells as collateral for personal loans, and that the Board had not reviewed or approved any of the individual transactions.

85. A Morningstar report summarized the fallout on April 20th, saying "Chesapeake Energy CHK was all over the news this week, thanks to a series of deals involving both the company and the personal investment activity of its outspoken CEO, Aubrey McClendon." The report concluded in particular that "we think McClendon's borrowing to fund his share of well costs ***effectively short-circuits the alignment of interest*** that should result from his participation alongside Chesapeake."

86. The market also learned for the first time on April 18 that the $1.1 billion McClendon used to finance his FWPP interest came from Chesapeake's own lenders. Chief among those lenders was EIG Global Energy Partners ("EIG"), a private equity fund. In the fall of 2008, following his personal financial crisis, McClendon was desperate for cash in order to participate in the 2009 FWPP. McClendon pursued negotiations with EIG, which had a 25-year history with Chesapeake.

87. To facilitate his secret debts, McClendon created at least three special purpose vehicles ("SPVs") that held his interests. For instance, McClendon formed Larchmont Resources, an SPV, through which EIG acquired the rights to all of McClendon's well stakes for 2009 and 2010. McClendon repeated his assignment of ***future interests*** when EIG set up Jamestown Resources, a similar special purpose vehicle, with the sole purpose of controlling McClendon's well shares in 2011, with rights to 2012. In total, EIG financed at least $1.33 million through the SPVs for McClendon.

88. At the same time, EIG also financed at least $2.5 billion for Chesapeake, on lucrative terms to EIG investors. As *Reuters* noted, analysts were concerned about the revelation of McClendon's personal loans, because they "***raise[] questions about whether Chesapeake's own financing terms could be influenced by its CEO's personal borrowing***."

89. EIG's deals with Chesapeake and McClendon are not the only transactions where McClendon's personal financing appears to be a *quid pro quo* for the Company's business. *The Wall Street Journal* reported that "several major Wall Street banks have lent [Mr. McClendon] money and then received lucrative work as public-offering underwriters or financial advisers to Chesapeake."

90. One of McClendon's financers is Wells Fargo, which extended a personal loan to McClendon in 2010 and purchased future production in McClendon's minority well shares through VPP transactions in 2008. Meanwhile, Wells Fargo served as a financial advisor to Chesapeake on ***10 transactions since 2005, valued at nearly $9.9 billion***. Wells Fargo also engaged in at least one VPP transaction with the Company in 2008.

91. Bank of America Corp. and Goldman Sachs Group also extended loans to McClendon in 2008 and 2009, and these banks are currently handling the initial public offering of Company subsidiary Chesapeake Oilfield Services Inc. McClendon also borrowed $225 million in June 2009 from Union Bank, a California lender.

92. In McClendon's defense, on April 18, former General Counsel Hood offered a self-serving explanation of these concealed transactions: though there could be

"some theoretical possibility of a conflict of interest" with the Company and its CEO borrowing from the same lender, Hood did not believe there is "an actual conflict of interest." Far from a hypothetical conflict, not only did the FWPP fail to align McClendon's interests with the Company's, it placed him in direct conflict with Chesapeake, including for access to capital. As a *Forbes* article on April 19 explains:

> Chesapeake is severely capital constrained (a result of high debt loads, reckless spending on ever more shale gas acreage and rock bottom natural gas prices) to the point that the company is trying to sell billions of dollars in assets this year to make ends meet. At the same time this is going on, ***McClendon has been competing directly against his own company*** for access to the capital markets in order to shore up his own finances—without telling shareholders the extent of his financings.

As discussed above, McClendon's interest also included driving the Company to incur unnecessary acquisition and drilling costs—despite a historic natural gas glut—so to satisfy his collateral obligations with future Chesapeake wells.

93. On April 26, debt-rating agency Standard & Poor's ("S&P") lowered Chesapeake's ratings to two notches below investment grade. The downgrade, S&P said, "reflect[s] our view that recent revelations about personal transactions undertaken by Chesapeake's CEO relating to the company's unusual FWPP underscore shortcomings in Chesapeake Energy Corp.'s corporate governance practices." S&P also found that the Board of Directors' statement that it was not aware of McClendon's loans or the terms of those loans "***represents a significant governance deficiency***."

94. S&P further noted its concern that McClendon's FWPP loans were obtained from Chesapeake's own lenders. The report said that these transactions

"heighten the potential for ***unmanaged and unmonitored conflicts of interest, or the perception thereof***."

95. The ratings agency connected all of these problems to Chesapeake's ability to deliver on its asset monetization strategy, concluding:

> Turmoil resulting from these developments—and from potential revelations resulting from the Board investigation—could hamper Chesapeake's ability to meet the massive external funding requirements stemming from its currently weak operating cash flow and aggressive capital spending.

96. In reaction to these revelations, Chesapeake's stock price dropped 3 percent on April 26th, closing at $17.56, on volume of 49.7 million shares, more than three times the average daily volume of the Class Period of 14.7 million shares.

97. Chesapeake revealed an investigation by the Internal Revenue Service ("IRS") deep within its 2011 Form 10-K/A, filed April 30, 2012, stating that the IRS "is reviewing certain issues with respect to the FWPP" in connection with the Company's 2008 and 2009 tax returns

98. Contrary to Defendants' assurances that they exercised discretion over capital expenditures to bring liabilities inline, on May 2, 2012, Defendants shocked the market with first quarter of 2012 results, reporting capital expenditure far exceeding expectations. As an analyst with Macquarie Equities Research concluded, Chesapeake's capital expenditures exceeded $2.48 billion, or 32 percent higher than expectations. The Company's long-term debt soared to over $13 billion due to higher-than-expected drilling costs. Deutsche Bank's analyst described the news as "[a]n additional negative surprise."

That same day, Morningstar noted that Chesapeake's capital spending "continued unabated during the quarter."

99. Similarly, the next day, an analyst with Brean Murray concluded: "Capital discipline has yet to materialize; 2012 capex budget increased by $700 million. Additional drilling expenditures account for $500 million, while acreage acquisitions add $200 million." And Deutsche Bank concluded: "with negative headline risk continuing, further asset sales not expected until Q3, and a possible liquidity crunch and debt issuance, we are maintaining our SELL ratings on all CHK bonds."

100. Morningstar noted that Chesapeake's capital spending "continued unabated during the quarter," giving cause for concern that Defendants were placing in jeopardy the Company's ability to produce in the future:

> All this leads us to wonder how many more jewels Chesapeake can pry off the crown without jeopardizing its balance sheet or its longer-term liquids production targets.

101. In reaction to these revelations on May 2, 2012, by the end of trading, Chesapeake's share price had fallen 15 percent, to close at $16.74, on volume of 146.6 million shares, more than ten times the average daily volume of the Class Period.

102. Then, on May 3rd, Chesapeake confirmed earlier media reports that the SEC also commenced an investigation into the Company's disclosures. This investigation troubled analysts in particular; one J.P. Morgan report explained that "[w]e think the SEC inquiry is a risk on top of the company's financial risk."

103. In reaction to the revelations, on May 4th, Fitch announced that it was revising the Company's ratings outlook to "negative," based on Chesapeake's "still

aggressive capital spending program" and "large funding gap" that leaves the Company further dependent on its increasingly risky asset monetization strategy. Fitch's outlook further stated that "corporate governance and Board of Director oversight remains a concern."

104. Following both S&P and Fitch, on May 9th, Moody's took similar action, and also downgraded its ratings outlook for Chesapeake to "negative." Explaining its rationale, Moody's concluded the negative outlook "reflects the escalating execution risk of Chesapeake's plan for funding its large capital spending budget, rising leverage metrics, and accompanying liquidity concerns."

105. Addressing McClendon's self-dealing, Moody's said: "recent disclosures related to the chief executive officer's personal financing transactions to fund his participation in the Founder Well Participation Program have raised conflict of interest questions and reflect poorly on Chesapeake's corporate governance." The next day, in discussing Moody's downgrade, *The Wall Street Journal* reported: "Moody's [] lowered to 'negative' the outlook on Chesapeake's $12 billion in rated, on-the-books debt, in part because it said the VPPs and other deals have raised total debt to $23.6 billion."

106. On May 10th, *The Wall Street Journal* revealed for the first time that Chesapeake "has saddled itself with about $1.4 billion of previously unreported liabilities over the next decade through off-balance sheet financial deals." The *Journal* based its report on a review of ten VPP documents, and determined that, while analysts "had previously tried to estimate these liabilities, with some fixing on a total value of around $600 million," Chesapeake's actual costs are "***far larger than previously believed by***

investors and analysts." The *Journal* pointedly noted that, while Chesapeake had been disclosing to investors the revenues associated with the deals, "it has not provided details about the costs to fulfill them, such as pumping and delivering the oil and gas." Responding to these revelations, a Chesapeake spokesman confirmed that the Company had not disclosed its true debt levels, absurdly claiming that accounting rules prevent the Company from disclosing the operating cost liability associated with VPPs.

107. In response to *The Wall Street Journal's* revelations, Chesapeake's stock price fell in a sell-off late in the day as investors reacted immediately to *The Wall Street Journal's* disclosure of the Company's VPP liabilities, closing down 2 percent on May 10th at $17.18, on volume of 32.7 million shares, more than twice the average daily volume.

108. The very next day, in reaction to the news of Chesapeake's true VPP liabilities, Defendants were forced to suspend future asset monetization sales. Because the Company's wells served as collateral for its credit lines, the debt covenants could be breached by any further transactions. Chesapeake's 2012 Proxy, as well as its Q1 2012 10-Q, were filed on May 11th, and disclosed that the Company forced to delay certain of the $14 billion in asset sales it had planned for 2012. As *Bloomberg News* explained, "Chesapeake's ability to comply with the covenants of its revolving bank credit facility may be reduced if the company sells any wells."

109. Only five business days earlier, Defendants had attempted to assure the market that its debt reduction plan was still in place. Responding to a question about the anticipated Eagle Ford VPP during an Earnings Call, McClendon explained that the

nearly $1 billion transaction was "in the not too distant future." Chesapeake CFO Dell'Osso similarly confirmed the imminent timing, describing the VPP as "relatively near-term" and as one that "we have a lot of confidence in," attempting to mitigate the market's concern and skepticism. A Wells Fargo analyst surmised that the "Eagle Ford VPP sounds like it might be close to completion."

110. However, Chesapeake's May 11 filings revealed that the Company would "delay one or more of our currently planned asset monetizations" in order to maintain compliance "with the requirements of our corporate credit facility." J.P. Morgan observed, "[f]rom the 10-Q, it is clear to us that the company has postponed its planned Eagle Ford Shale VPP, taking away one of the near-term potential positive catalysts," and the analyst confirmed with the Company that the statement referred to the Eagle Ford VPP.

111. As a result of the asset sale suspension, Chesapeake was forced to secure a bridge loan of up to $4 billion from Goldman Sachs and Jefferies at relatively usurious rates. In connection with the May 11 revelations, Defendants revealed that the Company is obligated to pay an initial interest rate of 8.5 percent, which jumps to 11.5 percent if the loan is not repaid by the end of 2012.

112. Tellingly, Goldman Sachs and Jeffries were Chesapeake's advisers on the Eagle Ford VPP. Once Chesapeake was forced to suspend that transaction due to the potential breach of debt covenants, the advisers swooped in to extend credit at exorbitant rates. A Morningstar report described the loan as "indicative of the financial tightrope Chesapeake continues to walk and the realization that planned asset sales would have

compromised Chesapeake's ability to borrow under its existing credit facility." *The Wall Street Journal* further reported on "the steep interest rates on the new loan, and the large funding gap that led Chesapeake to agree to [the loan]." A bond portfolio manager, Sabur Moini, told the paper that "investor confidence was shaken by the loan . . . but it has also been dented by other factors, including controversy over CEO Aubrey McClendon's pledging his stakes in company wells as collateral to secure loans with companies that do business with Chesapeake."

113. On May 11, 2012, Chesapeake's stock dropped $2.37 per share to close at $14.81, a decline of approximately 14 percent, on volume of 86.1 million shares, approximately six times the average daily volume of the Class Period. Assessing the damage, an RBC analyst attributed the collapse to "heightened concerns over liquidity," and concluded that the Q1 2012 10-Q "indicat[ed] that CHK could not provide assurance that it will complete any of the planned transactions on a timely basis or at all and that it may need to look for alternative sources to address near-term liquidity needs." Finally, the fundamental truth that Chesapeake had fraudulently concealed was glaringly apparent to the market, as the risks of the Company's undisclosed off-balance sheet debt, liquidity crisis, and excessive dependency on VPP transactions for cash flow, and the vulnerability of the Company's asset monetization strategy to McClendon's longstanding conflicts of interest, fully materialized.

114. Individually and collectively, these drops removed the fraudulent inflation from Chesapeake's stock price, causing it to plummet approximately 60 percent from its

Class Period high, thus resulting in significant economic loss to investors who purchased the stock during the Class Period.

E. <u>Post-Class Period Events Confirm Defendants' Fraud</u>

115. Following these revelations, the Company was forced to revise its disclosure policies. Specifically, Chesapeake adopted revised policies for "Transactions with Related Parties" in its 2011 10-K/A and 2012 Proxy, stating:

> The Company has adopted written policies and procedures for the Audit Committee's review of any transaction, arrangement or relationship or series of similar transactions, arrangements, or relationships (including any indebtedness or guarantee of indebtedness) in which (1) the aggregate amount involved will or may be expected to exceed $120,000 in any calendar year, (2) the Company is a participant, and (3) any of its directors, executive officers, or greater than 5% shareholders, or any of their immediate family members, has or will have a material direct or indirect interest. The Audit Committee approves or ratifies only those transactions that it determines in good faith are in, or are not inconsistent with, the best interests of the Company and its shareholders.

116. Also in its 2012 Proxy filed on the last day of the Class Period, Chesapeake announced the early termination of the FWPP and the removal of McClendon as Chairman of the Board and the appointment of an independent, non-executive Chairman. According to the Board, these dramatic steps were undertaken to "improve our corporate governance and eliminate a source of controversy." Also following the revelations, the Board relieved Henry Hood of the General Counsel position and the Board's audit committee retained outside counsel to examine McClendon's finances.

117. Chesapeake also acknowledged for the first time in its 2012 Proxy that McClendon had sold his FWPP interests separately from Company sales, and that he used

his FWPP interest as collateral to finance his participation in the program with Chesapeake's corporate lenders:

> From time to time, Mr. McClendon has sold FWPP interests ***separately*** and concurrently with sales by the Company of its interests in the same properties. . . . ***Additionally, over the life of the FWPP, Mr. McClendon has typically mortgaged his interests acquired under the FWPP with one or more lenders, some of which also have lending, investment or advisory relationships with the Company.*** Mr. McClendon's mortgages with these lenders secure ***loans used in whole or in part to fund Mr. McClendon's well costs***.

118. On July 16, 2012, Chesapeake finally disclosed information to analysts that revealed that at least ***23.7 percent of the Company's production expenses were related to VPP contracts***.

119. On May 15, S&P downgraded Chesapeake's credit rating even further, citing shortcomings in the Company's corporate governance practices, concerns about loan covenants and the likelihood of a wider gap between operating cash flow and capital expenditures.

V. CHESAPEAKE'S FALSE AND MISLEADING STATEMENTS

120. As detailed herein, the Defendants fraudulently made false and misleading statements and omitted to state facts that would alter the total mix of information in the following statutory filings with the SEC.

121. The below table sets out Chesapeake's statutory filings with the SEC that are the subject of the action.

Filing	Date	Definition	Defendants Signed and/or Certified
10-Q	May 11, 2009	Q1 2009 10-Q	McClendon, Rowland
14A Proxy	May 13, 2009	2009 Proxy	n/a
10-Q	August 10, 2009	Q2 2009 10-Q	McClendon, Rowland
10-Q	November 9, 2009	Q3 2009 10-Q	McClendon, Rowland
10-K	March 1, 2010	2009 10-K	McClendon, Rowland, Johnson
14A Proxy	May 12, 2010	2010 Proxy	n/a
10-Q	May 10, 2010	Q1 2010 10-Q	McClendon, Rowland
10-Q/A	July 30, 2010	Q1 2010 10-Q/A	McClendon, Rowland
10-K/A	August 2, 2010	2009 10-K/A	McClendon, Rowland
10-Q	August 9, 2010	Q2 2010 10-Q	McClendon, Rowland
10-Q	November 9, 2010	Q3 2010 10-Q	McClendon, Dell'Osso
10-K	March 1, 2011	2010 10-K	McClendon, Dell'Osso, Johnson
14A Proxy	May 12, 2011	2011 Proxy	n/a
10-Q	May 10, 2011	Q1 2011 10-Q	McClendon, Dell'Osso
10-Q	August 9, 2011	Q2 2011 10-Q	McClendon, Dell'Osso
10-Q	November 9, 2011	Q3 2011 10-Q	McClendon, Dell'Osso
10-K	February 29, 2012	2011 10-K	McClendon, Dell'Osso, Johnson
10-K/A	April 30, 2012	2011 10-K/A	McClendon, Dell'Osso
14A Proxy	May 11, 2012	2012 Proxy	n/a
10-Q	May 11, 2012	Q1 2012 10-Q	McClendon, Dell'Osso

1. Chesapeake's Debt Reduction Strategy

122. At the outset of the Class Period, on May 11, 2009, in the Q1 2009 10-Q, Chesapeake announced a "plan[] to increase its liquidity, reduce its borrowings under its revolving credit facility and also strengthen its balance sheet through asset monetizations."

123. Throughout the Class Period, the Company and the Individual Defendants made various misleading statements and omissions concerning the Company's leverage, long term debt, and liquidity. For example, McClendon personally stated during the

Q2 2009 Earnings Call that "we will substantially deleverage Chesapeake's balance sheet and have investment grade credit metrics by year end 2010."

124. In Chesapeake's 2009 10-K, while acknowledging that the Company's "junk" credit rating was a "competitive disadvantage," Defendants stated that the reduction in debt would influence the Company's share price:

> Among our large-cap peers in the natural gas exploration and production industry, we are the only company without an investment grade credit rating. We believe this is a ***competitive disadvantage*** and we intend to address this issue in the years ahead by reducing our debt and by growing our asset base. . . . We believe the reduction in our debt will lower our borrowing costs, reduce concerns about our ability to access capital markets if such access were needed, increase our financial flexibility, improve our hedging capabilities and ***increase our stock market valuation***.

125. McClendon stated on January 7, 2011, that the 25/25 plan "represents a ***fundamental shift*** from our aggressive asset accumulation of the past few years to a multi-year period of asset harvest, ***characterized by a clear focus on capital discipline*** and maximizing returns." The explicit goals of the plan, as stated in the 2010 10-K, were to reduce Chesapeake's "outstanding long-term indebtedness," "lower borrowing costs," and "increase [] financial flexibility." Defendants believed that "improved credit metrics . . . [would] lead to a more favorable debt rating by the major ratings agencies."

126. During a May 24, 2011 investor conference call at the Barclays Capital Americas Select Conference, Mobley continued the Company's deception:

> ***We've also continued to monetize reserves through some volumetric production payments***. So, over a two-year time frame, from 2010 to 2012, after divestitures, our production will grow in total about 25%. Our balance sheet will have

> 25% less debt at the end of 2012 compared to the end of 2010. We believe the combination of implementing all of those aspects of the plan should allow us to achieve an investment grade ratings for our debt securities and hopefully an improved equity valuation multiple. And some of that has been recognized over the past five months as we have announced and implemented this plan. . . .
>
> ***Because of the successful monetizations we've had to date, our balance sheet has dramatically improved***.

127. Also on May 24, 2011, Dell'Osso omitted key information while addressing investors at the UBS Global Oil and Gas Conference:

> A couple of quick hits to our financial overview—our 25/25 plan is off to a great start. The plan is very simple; it's to grow production by 25% over a two-year period and, at the same time, reduce the debt on our balance sheet by 25%. ***At the moment, we have accomplished the debt reduction goal***.

128. On September 6, 2011, citing the success of its production growth, McClendon informed the Company's shareholders at the Barclays CEO Energy Power Conference that Chesapeake had transitioned to a "30/25 Plan":

> Start of this year, we came out with a 25/25 plan. Our production has now already overrun our model, and we've had to increase the plan to 30/25. I hope some things play out right, that by the end of the day -- at the end of 2012, when we kind of get marked against this plan, I hope that we've got a 30/30 plan and we've been able to reduce our debt by 30% as well. ***We've had a great start this year in being able to get this plan underway***, and I think investors have received it well.

129. The Company often referenced the importance of its asset monetization program as it continued to tout the success of its debt reduction strategy. As John Kilgallon, Manager of IR and Research, stated during an October 12, 2011 conference call at the Deutsche Bank Securities Inc. Leveraged Finance Conference:

> So, in summary, again, the 25/25 plan, which is now 30/25, is ***well on its way***.

Later on October 12, 2011, addressing an analyst's question, Kilgallon stated further:

> In terms of the debt reduction, it will continue to target that. I mean, the 25% debt reduction is a year-end 2012 goal. We have said in the past we hope to upsize the debt reduction similar to the production increase, to make it a 30/30 plan. That hasn't been set in stone yet, ***but with those monetizations, we should feel like we're comfortable in reaching the 25% debt reduction by year-end '12***.

130. The Company continued to mislead and omit material information through the end of the Class Period. During a December 1, 2011 investor conference call at the Bank of America Merrill Lynch Leveraged Finance Conference, Dell'Osso stated:

> Most importantly to this room, our balance sheet will have investment grade metrics by the end of that time [next two years]. ***That is really an unavoidable fact***. When you're adding 1 Tcf per quarter and you are paying down debt, the only metric that really stands out relative to our investment grade peers today is debt to proved reserves.
>
> . . . The 30/25 plan. We are fully committed to this plan. Everybody likes to ask me that every time we get in front of a room. ***We will deliver on this plan. There is no backing away from it whatsoever.*** Through that, we will increase production by 30% and decrease debt by 25% over a two-year period.

131. In its public filings throughout the Class Period, the Company also made various statements and omissions concerning its retention of a significant degree of control over the timing of the Company's capital expenditures, which supposedly allowed for flexibility in implementing its debt reduction strategy and addressing liquidity issues. In the Company's Q2 2009 10-Q, Q3 2009 10-Q; 2009 10-K; 2010 10-K; and 2011 10-K, Defendants stated:

> We retain a significant degree of control over the timing of our capital expenditures which permits us to defer or accelerate certain capital expenditures if necessary to address any potential liquidity issues.

132. Defendants' statements and omissions set forth in ¶¶122-131 were materially false and misleading when made because they failed to disclose and/or misrepresented the following adverse material facts, among others: (i) the Company had incurred at least $1.4 billion of undisclosed off balance sheet VPP liabilities (ii) contrary to the stated purpose of the VPPs (*i.e.* to reduce debt and monetize assets), the off-balance sheet debt associated with the VPPs in fact increased the Company's debt; (iii) the VPPs imposed contractual obligations that required Chesapeake to bear production costs, meaning that Defendants did not retain a significant degree of control over the timing of these costs, further limiting Chesapeake's flexibility in dealing with potential liquidity issues; (iv) McClendon's secret personal loans required him to take all commercially reasonable action to ensure that other owners and operators of the wells—including Chesapeake—comply with covenants and agreements of the loans; (v) McClendon's personal interest was to continue to acquire, explore, and drill wells despite the Company's stated strategy because under the terms of his loans, McClendon was obligated to participate in the FWPP each subsequent year and pledge prospectively the interest in the Company's wells he would receive; (vi) McClendon's personal incentive was to aggressively pursue land and well acquisition at any cost to the Company because he was only obligated to pay expenses on drilled wells, thereby participating only in the upside of well development and not the downside; (vii) the

monetization strategy did not represent a fundamental shift from the aggressive asset accumulation strategy to a clear focus on "capital discipline and maximizing returns"; (viii) Defendants did not "accomplish[] the debt reduction goal"; (ix) Chesapeake's balance sheet had not "dramatically improved" due to "the successful monetizations [Defendants] had to date"; (x) Chesapeake was in violation of its disclosure obligations pursuant to the federal securities laws, SEC regulations, and GAAP as specifically alleged herein; and (xi) with respect to Chesapeake's statements in Forms 10-K, Defendants concealed information required to be disclosed under Item 303 of Regulation S-K.

2. The FWPP And McClendon's Financing Of His Participation In The Program

133. The FWPP was included as Exhibit B to the Company's Annual Proxy, Form 14A, filed April 29, 2005, and was incorporated by reference, in the 2009 10-K, 2010 10-K, and 2011 10-K, which were filed and disseminated during the Class Period. Section 10.2 of the FWPP, titled "Nonassignability," limited McClendon's ability to assign his future well interests. Under the provision, McClendon was only permitted to mortgage, sell, or assign his FWPP interests after Chesapeake had assigned and recorded the interest to McClendon. The provision stated:

> The right to participate in the Founder Well Participation Program can only be assigned by a Founder to a Founder Affiliate designated as such in accordance with this Founder Well Participation Program. This Founder Well Participation Program does not limit the sale, mortgage, gift or assignment by a Founder of an interest in a Program Well ***once the interest has been assigned of record by the Company Entities***.

134. With respect to the FWPP, McClendon was identified as a Related Party in each of the Forms 10-K filed during the Class Period pursuant to the SEC and GAAP reporting requirements. The 2009 10-K, 2010 10-K, and 2011 10-K stated the amount of accrued accounts receivable from McClendon representing his joint interest billings from the time period. Under the heading of "Related Party Transactions," the Forms 10-K stated:

> Since Chesapeake was founded in 1989, our CEO, Mr. McClendon, has acquired working interests in virtually all of our natural gas and oil properties by participating in our drilling activities under the terms of the Founder Well Participation Program ("FWPP") and predecessor participation arrangements provided for in Mr. McClendon's employment agreements. Under the FWPP, approved by our shareholders in June 2005, Mr. McClendon may elect to participate in all or none of the wells drilled by or on behalf of Chesapeake during a calendar year, but he is not allowed to participate only in selected wells. A participation election is required to be received by the Compensation Committee of Chesapeake's Board of Directors not less than 30 days prior to the start of each calendar year. His participation is permitted only under the terms outlined in the FWPP, which, among other things, limits his individual participation to a maximum working interest of 2.5% in a well and prohibits participation in situations where Chesapeake's working interest would be reduced below 12.5% as a result of his participation. In addition, the company is reimbursed for costs associated with leasehold acquired by Mr. McClendon as a result of his well participation.

135. The Company's 2011 10-K also stated that "[f]rom time to time, Mr. McClendon has sold his FWPP interests in conjunction with sales by the Company of its interests in the same properties, and the proceeds related to those sales have been allocated between Mr. McClendon and the Company based on their respective ownership interests and on the same terms as those that applied to the Company's properties included in the sale."

136. In an April 30, 2009 letter from Chesapeake's General Counsel Henry Hood to *The Daily Oklahoman*, published on the Company's website on May 4, 2009, the Company discussed the purpose of the FWPP:

> The Board required Aubrey to invest the net award into the Founders Well Participation Program (in place since 1993 and approved overwhelmingly by shareholder vote in 2005) ***so that he was required to take drilling and gas price risk alongside the Company***. The award will fund less than 20% of Aubrey's anticipated costs of participating in the Company's wells during 2009. We suspect if the executives on Wall Street had been required to invest all of their net bonuses in a cross section of their Company's investments, our country would not find itself in the current financial crisis. ***The alignment of risk between Aubrey and the Company is unique and exemplary.***
>
> The revisions to Aubrey's employment agreement require him to remain in his leadership role for at least five years, and ***to refrain from outside activities that might be inconsistent with the best interests of the Company*** throughout that period. . . .
>
> Rather than just issue a large number of shares of stock at historically low prices or a large cash payment, ***the Board tailored a specific award that aligned Aubrey's interests with the Company and put him at risk if the Company drilled poor wells.***

137. Chesapeake repeated these claims that the FWPP aligned McClendon's interests with those of the Company throughout the Class Period. In the Company's 2009 Proxy, Chesapeake stated:

> The FWPP fosters and promotes the development and execution of the Company's business by: (a) retaining and motivating our chief executive officer who co-founded the Company; (b) ***aligning the financial rewards and risks of Mr. McClendon with the Company*** more effectively and directly than other performance incentive programs maintained by many of the Company's peers; and (c) ***imposing on Mr. McClendon the same risks incurred by the Company in its exploration and production operations***. The Compensation Committee reviews Mr. McClendon's

> participation in the FWPP on a semi-annual basis and annually adjusts the acreage costs charged to Mr. McClendon to ensure his reimbursements reflect the Company's recent acreage activities.

Identical disclosures appeared in the Company's 2010 Proxy and 2011 Proxy.

138. The Company also stated in its 2009 Proxy that "the requirement that Mr. McClendon use the FWPP Credit *to* ***invest on an at-risk basis*** in the Company's wells and the imposition of the clawback would ***align Mr. McClendon's economic interests with the Company's long-term business plan and the shareholders' interests***."

139. Responding on April 18, 2012 to the revelations of McClendon's personal loans financing his participation in the FWPP, Chesapeake issued a statement it described as "refuting a highly critical investigative report by the *Reuters* news agency." With regard to the FWPP, the Company said "Mr. McClendon's interests and Chesapeake's are ***completely aligned***." The Company also quoted Hood directly in the April 18, 2012 release; the General Counsel stated that the FWPP "***fully aligns the interests of Mr. McClendon with the company***." 8-K, filed April 20, 2012 (attaching April 18, 2012 press release titled, "Chesapeake Energy Corporation General Counsel Henry J. Hood Issues Statement").

140. The April 18, 2012 press release also quoted Hood directly, offering that "[t]he suggestion of any conflicts of interest is unfounded," and that "[t]he ***Board of Directors is fully aware*** of the existence of Mr. McClendon's financing transactions and the fact that these occur is disclosed in the proxy."

141. In each of the Company's quarterly and annual filings with the SEC, throughout the Class Period that are at issue, Defendants stated that the Company's "consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States of America ('GAAP')."

142. Defendants' statements and omissions set forth in ¶¶133-141 were materially false and misleading when made because they failed to disclose and/or misrepresented the following adverse material facts, among others: (i) McClendon was not invested in the FWPP "on an at-risk basis" and his economic interests were not aligned with the Company's long-term business plan and the shareholders' interests; (ii) McClendon, as an admitted related party to Chesapeake, had financed 100 percent of his FWPP interests with non-recourse loans and mortgages totaling at least $1.55 billion; (iii) McClendon, as an admitted related party to Chesapeake, had financed 100 percent of his FWPP interest with $1.55 billion of non-recourse loans from Chesapeake's corporate lenders; (iv) McClendon's interests were neither "completely aligned" nor "fully aligned" with shareholders'; (v) McClendon's secret personal loans required him to take all commercially reasonable action to ensure that other owners and operators of the wells—including Chesapeake—comply with covenants and agreements of the loans, even if those actions were adverse to Chesapeake; (vi) McClendon's personal interest was to continue to acquire, explore, and drill wells despite the Company's stated strategy because under the terms of his loans, McClendon was obligated to participate in the FWPP each subsequent year and pledge prospectively the interest in the Company's wells he would receive; (vii) McClendon assigned his personal well interests to his lenders

prior to the FWPP interest being assigned to McClendon, in violation of Section 10.2 of the FWPP; (viii) McClendon's personal incentive was to aggressively pursue land and well acquisition at any cost to the Company because he was only obligated to pay expenses on drilled wells, thereby participating only in the upside of well development and not the downside; (ix) McClendon was not "at risk if the Company drilled poor wells"; (x) McClendon's need for FWPP financing created incentives for undisclosed related party transactions with Chesapeake's lenders, including transactions at terms unfavorable to the Company; (xi) McClendon's pledges and sales of his FWPP interests were not "in conjunction" with any sales by the Company of its interests in the same properties; (xii) McClendon was personally competing with Chesapeake for financing and access to the capital markets; (xiii) the Board was not "fully aware" of McClendon's related party loan transactions; (xiv) Chesapeake's disclosures were in violation of its disclosure obligations pursuant to the federal securities laws, SEC regulations, and GAAP as specifically alleged herein; and (xv) with respect to Chesapeake's statements in Forms 10-K, Defendants concealed information required to be disclosed under Item 303 of Regulation S-K.

3. Chesapeake's Off-Balance Sheet <u>Liabilities Associated With VPPs</u>

143. During the Class Period, Defendants stated that VPPs were a principal part of the Company's asset monetization and debt reduction strategy. During a February 18, 2010 Earnings Call, Rowland, in response to an analyst's direct question, touted the

benefits of VPP transactions over sales, including favorable tax treatment for the transactions:

> I think there's really three things that I think about VPP and why we might use that versus an asset sale. One is the lengthy nature of some of our conventional production when sold to a traditional buyer. After eight or ten years of production, really, you're getting zero value from the buyer, on the tail of that production. So, in some of our VPPs, the tail of the production and the coverage ratios are 70% of the total asset value or more. So, by getting nearly as much proceeds as you could from a conventional player, which, by the way, would be taxable, where a VPP is not taxable we can maintain a large kind of optionality as you put it.
>
> The second thing I think about is the technology in the deeper drilling. Reserves overtime in Oklahoma and the Appalachian basin, for example, new plays have come out just like the Marcellus, which underlies much of the assets that we bought back from CNR in 2005. And, so we did a VPP there, keeping the optionality of new technology, new plays that are deeper. So I think that is certainly one way to think about it.
>
> And then the third thing, honestly, is that in this market the financial players with the VPP that might be equivalent to an investment-grade type of investment, significantly broadens the potential universe of people that are willing to give us money. We operate for those people. We keep our skin in the game. And so they come forward at discount rates that are lower than what I've seen the potential competing asset buyer, the discount rates being lower for the financial players than what the industry, let's say, is willing to accept. So, those are several reasons why I think VPP is attractive to us.

144. Similarly, during the May 5, 2010 Earnings Call, McClendon stated in response to a question: "we're thrilled that other people don't [use VPPs] because there's less competition into the financial market. . . . We like them, though, because we are able to monetize mature assets at what, we think, is a very favorable value."

145. Roland further stated in the call, responding to the same analyst's question: "we don't have any obligation except to deliver their volumes to them in the form of cash. . . . ***So, there is no ongoing dollar obligation for us at all***."

146. During the May 24, 2011 UBS Global Oil and Gas Conference, Dell'Osso described the Company's ninth VPP transaction:

> The VPP proceeds that we received recently, about $850 million—another great transaction. . . . [I]t was a ***great monetization for us there where we retain all the upside***. . . . [S]o important to monetize production while we retain upside; ***that's a strategy we will always employ.***

147. In its 2011 10-K, the Company offered an "Update to Financial Plan" that emphasized the importance of VPP transactions:

> Our business strategy is to continue our reserves and production growth and transition to increased liquids production. . . . ***We plan to obtain funds for these capital expenditures from*** operating cash flow, supplemented by ***various asset monetization transactions***, including joint ventures, ***volumetric production payments***, financial transactions and other property and investment dispositions.

148. During a March 27, 2012 investor conference call at the Barclays Bank High Yield Bond and Syndicated Loan Conference, Mobley described the Company's VPP sale program:

> We have been a great buyer of assets, but ***we've also been a great seller of assets***. And that includes, now, 10 volumetric productions payments; that includes a complete exit out of two major plays, among other sales. And so did these are very strong results inclusive ***some very profitable monetization for us***.

149. In the Company's disclosures filed with the SEC, Defendants also issued false and misleading statements concerning Chesapeake's VPP deals. These statements were false and misleading by virtue of their failure to provide information concerning the ongoing and future liabilities associated with the commitments and the resulting impact on the Company's financial condition. Throughout the Class Period, Defendants disclosed details about their VPPs, including the billions of dollars in proceeds generated from the transactions.

150. Specifically, the 2009 10-K and Q2 2009 10-Q stated with regard to Chesapeake's fifth VPP:

> On August 4, 2009, we sold certain Chesapeake-operated long-lived producing assets in South Texas in our fifth volumetric production payment transaction for proceeds of approximately $370 million.

The relevant details regarding the proceeds of the August 4, 2009 VPP transaction were also recited in the 2010 10-K, Q3 2009 10-Q, Q1 2011 10-Q, Q2 2011 10-Q, Q3 2011 10-Q, 2011 10-K, and Q1 2012 10-Q.

151. Specifically, the 2009 10-K and Q1 2010 10-Q stated with regard to the Company's sixth VPP:

> On February 5, 2010, we sold certain Chesapeake-operated long-lived producing assets in East Texas and the Texas Gulf Coast in our sixth volumetric production payment (VPP) transaction for proceeds of $180 million.

The relevant details regarding the proceeds of the February 5, 2010 VPP transaction were also recited in the 2010 10-K, Q2 2010 10-Q, Q3 2010 10-Q, Q1 2011 10-Q, Q2 2011 10-Q, Q3 2011 10-Q, 2011 10-K, and Q1 2012 10-Q.

152. Specifically, the Q2 2010 10-Q and Q3 2010 10-Q stated with regard to the Company's seventh VPP:

> On June 14, 2010, we sold certain Chesapeake-operated long-lived producing assets in the Permian Basin in our seventh VPP transaction for proceeds of approximately $335 million, or $8.73 per mcfe.

The relevant details regarding the proceeds of the June 14, 2010 VPP transaction were also recited in the 2010 10-K, Q1 2011 10-Q, Q2 2011 10-Q, Q3 2011 10-Q, 2011 10-K, and Q1 2012 10-Q.

153. Specifically, the Q3 2010 10-Q stated with regard to the Company's eighth VPP:

> On September 30, 2010, we sold certain Chesapeake-operated long-lived producing assets in the Barnett Shale in our eighth VPP transaction for proceeds of approximately $1.15 billion, or $2.93 per mcfe.

The relevant details regarding the proceeds of the September 30, 2010 VPP transaction were also recited in the 2010 10-K, Q1 2011 10-Q, Q2 2011 10-Q, Q3 2011 10-Q, 2011 10-K, and Q1 2012 10-Q.

154. Specifically, the Q2 2011 10-Q stated with regard to the Chesapeake's ninth VPP:

> In May 2011, we monetized certain of our producing assets in the Mid-Continent through a ten-year VPP for proceeds of approximately $850 million.

The relevant details regarding the proceeds of the May 2011 VPP transaction were also recited in the 2011 10-K, Q1 2011 10-Q, Q3 2011 10-Q, and Q1 2012 10-Q.

155. Specifically, the Q1 2012 10-Q stated with regard to the Company's tenth VPP:

> In March 2012, we monetized certain of our producing assets in the Anadarko Basin Granite Wash through a ten-year VPP for proceeds of approximately $745 million.

156. In various other public statements, the Defendants repeatedly touted the proceeds from the VPPs and its success as an asset monetization strategy, without including information as to its undisclosed off-balance sheet liabilities and related risk.

157. On April 9, 2012, the Company issued a Press Release announcing the sale of a VPP with Morgan Stanley and further indicating that the Company yielded approximately $6.4 billion in combined proceeds from ten VPP transactions undertaken since December 2007. 8-K, filed April 13, 2012 (attaching April 9, 2012 press release titled, "Chesapeake Energy Corporation Announces Three Oil and Gas Asset Monetization Transactions for Proceeds of $2.6 Billion").

158. In each of the Company's quarterly and annual filings with the SEC, throughout the Class Period that are at issue, Defendants stated that the Company's "consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States of America ('GAAP')."

159. Defendants' statements and omissions set forth in ¶¶143-158 were materially false and misleading when made because they failed to disclose and/or misrepresented the following adverse material facts, among others: (i) the VPPs did not reduce Chesapeake's outstanding long-term indebtedness, lower borrowing costs, or increase financial flexibility; (ii) the Company had incurred at least $1.4 billion of

undisclosed off balance sheet VPP liabilities (iii) contrary to the stated purpose of the VPPs (*i.e.*, to reduce debt and monetize assets), the off-balance sheet liabilities associated with the VPPs in fact increased the Company's debt; (iv) the VPPs imposed contractual obligations that required Chesapeake to bear production costs, meaning that Defendants did not retain a significant degree of control over the timing of these costs, further limiting Chesapeake's flexibility in dealing with potential liquidity issues; (v) the use of VPP was not a shift from the aggressive asset accumulation strategy to a clear focus on "capital discipline and maximizing returns"; (vi) Defendants did not accomplish the debt reduction goal; and (vii) Chesapeake's balance sheet had not "dramatically improved" due to "the successful monetizations [Defendants] had to date;" (viii) while Defendants repeatedly disclosed the $6.4 billion in proceeds, and the benefits of VPPs in support of its asset monetization program, they failed to disclose the Company's future liabilities and/or expenses associated with the VPPs or sufficient information sufficient to understand the estimated future off-balance sheet expenditures associated with delivering on these contracts; (ix) Chesapeake was in violation of its disclosure obligations pursuant to the federal securities laws, SEC regulations, and GAAP as specifically alleged herein; and (x) with respect to Chesapeake's statements in Forms 10-K, Defendants concealed information required to be disclosed under Item 303 of Regulation S-K.

4. Chesapeake's Internal Controls And McClendon's Dual Role And Duties

160. In every Form 10-Q filed by the Company throughout the Class Period, Chesapeake stated that McClendon and the Company's CFO had reviewed and endorsed the Company's controls and procedures surrounding mandatory public disclosures:

> At the end of the period covered by this report, we carried out an evaluation, under the supervision and with the participation of Chesapeake management, including Chesapeake's Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of Chesapeake's disclosure controls and procedures pursuant to Securities Exchange Act Rule 13a-15(b). Based upon that evaluation our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures are effective.

Specifically, this statement appeared in each of the following SEC filings: Q1 2009 10-Q; Q2 2009 10-Q; Q3 2009 10-Q; Q1 2010 10-Q; Q1 2010 10-Q/A; Q2 2010 10-Q; Q3 2010 10-Q; Q1 2011 10-Q; Q2 2011 10-Q; Q3 2011 10-Q; and Q1 2012 10-Q.

161. Chesapeake also made expansive statements about its internal controls, stating in both its 2010 and 2011 Proxies, that "[t]he Company is committed to strong corporate governance," and highlighting the supposed advantages of McClendon's combined role as both CEO and Chairman of the Board.

162. Addressing the combined roles in the 2010 Proxy, Chesapeake stated that "[t]his arrangement has proven effective for the Company in the past and the Board believes it will continue ***to best serve the interests of the Company and its shareholders*** in the future." The Company stated further that "Mr. McClendon most effectively

coalesces the leadership and advisory roles of the Board with the strategic and operational expertise of the Company's management team."

163. Again emphasizing a theme of alignment, with McClendon as the lynchpin, the Company stated in its 2011 Proxy that "[m]aintaining a combined Chairman and CEO role enables Mr. McClendon to act as a bridge between management and the Board of Directors, ***helping both to act with a common purpose***. This also fosters consensus-building and can help prevent divergent views on strategy and tactical execution of a Board-approved vision and strategy at the top levels within the Company."

164. In the 2011 Proxy, the Company also touted the supposed efficiencies of the combined role, stating in particular that "[i]n the context of risk oversight, by combining the positions of Chairman and CEO, the Board gains valuable perspective that combines the operating experience of a member of management with the oversight focus of a member of the Board."

165. The 2011 Proxy also specifically stated that "the Board of Directors believes that consolidating the positions of Chairman and CEO in Mr. McClendon most effectively coordinates the leadership and advisory roles of the Board with the strategic and operational expertise of the Company's management team."

166. Chesapeake also implemented a Code of Business Conduct and Ethics (the "Code") that governed the behavior of the Company's officers and directors. The Code was originally adopted in 2002, published on Chesapeake's website, and described and referenced explicitly in the 2009 Proxy, 2010 Proxy, 2011 Proxy, and 2012 Proxy. The Code was amended March 1, 2012, but the provisions excerpted herein did not change.

167. In the Code's Policy Statement, the Company described its first two goals the Code is intended to promote: "[h]onest and ethical conduct" and "[a]voidance of conflicts of interest." The Code states:

> Every director, officer and employee of the Company is required to comply with all applicable laws, regulations and rules of the New York Stock Exchange and to adhere to high ethical standards in the conduct of the Company's business.

168. The Company made a number of statements in the Code regarding actual and potential conflicts of interest:

> All directors, officers and employees of the Company ***must avoid situations that create a conflict of interest or the appearance or potential for a conflict of interest***. A conflict of interest exists when your personal interests are either in conflict with the Company's interests or interfere with your ability to perform your duties to the Company or responsibilities at work. While conducting the Company's business, ***you have a duty to act in the Company's best interest.*** . . .
>
> It is the Company's policy to identify and acknowledge in writing (in an employment agreement in the case of officers) certain relationships or ownership interests, and the terms thereof, that are acceptable to the Company but that might otherwise appear to represent a conflict of interest. . . .
>
> You are expected to recognize situations where a conflict of interest has occurred, or has the potential to occur, and take the necessary actions to eliminate or mitigate such conflict, including, if necessary, enlisting the assistance of management. If you believe a conflict of interest has occurred or cannot be avoided, you are required to disclose such conflict in writing to the Sr. Vice President of Human & Corporate Resources.

169. Chesapeake also set forth the obligations of officers and directors regarding corporate opportunities in the Code:

> You may not personally take for yourself opportunities that are developed through the use of Company resources, information or position; use Company property, information or position for personal gain, or compete with the Company. You have a duty to the Company to advance its legitimate interests when the opportunity to do so arises.

170. Defendant McClendon certified the 2009 10-K, 2009 10-K/A, 2010 10-K, 2011 10-K, and 2011 10-K/A, pursuant to 18 U.S.C. § 1360, as adopted by Section 906 of SOX, stating that the "information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Chesapeake."

171. Defendant McClendon also certified the Q1 2009 10-Q, Q2 2009 10-Q, Q3 2009 10-Q, Q1 2010 10-Q, Q2 2010 10-Q, Q3 2010 10-Q, Q1 2011 10-Q, Q2 2011 10-Q, Q3 2011 10-Q, and Q1 2012 10-Q, pursuant to Section 302 of SOX, stating that "this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report," and that "the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report." Pursuant to his certifications under Section 302 of SOX, McClendon also attested that he "establish[ed] and maintain[ed] disclosure controls and procedures [] and internal control over financial reporting" and disclosed based on the "most recent evaluation of internal control over financial reporting . . . all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting

which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information."

172. Defendant Rowland certified the 2009 Form 10-K and 10-K/A, pursuant to 18 U.S.C. § 1360, as adopted by Section 906 of SOX, stating that the "information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company."

173. Defendant Rowland also certified the Q1 2009 10-Q, Q2 2009 10-Q, Q3 2009 10-Q, Q1 2010 10-Q, and Q2 2010 10-Q, pursuant to Section 302 of SOX, stating that "this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report," and that "the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report." Pursuant to his certifications under Section 302 of SOX, Rowland also attested that he "establish[ed] and maintain[ed] disclosure controls and procedures [] and internal control over financial reporting" and disclosed based on the "most recent evaluation of internal control over financial reporting . . . all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information."

174. Defendant Dell'Osso certified the 2010 and 2011 Form 10-K, as well as the 2011 Form 10-K/A, filed pursuant to 18 U.S.C. § 1360, as adopted by Section 906 of SOX, stating that the "information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company."

175. Defendant Dell'Osso also certified the Q3 2010 10-Q, Q1 2011 10-Q, Q2 2011 10-Q, 3Q 2011 10-Q, and Q1 2012 10-Q, pursuant to Section 302 of SOX, stating that "this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report," and that "the financial statements, and other financial information included in this Report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this Report." Pursuant to his certifications under Section 302 of SOX, Dell'Osso also attested that he "establish[ed] and maintain[ed] disclosure controls and procedures [] and internal control over financial reporting" and disclosed based on the "most recent evaluation of internal control over financial reporting . . . all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information."

176. Defendant Johnson signed the 2009 10-K, 2010 10-K, and 2011 10-K, pursuant to the requirements of the Securities Exchange Act of 1934, "on behalf of the

registrant" and in his capacity as Senior Vice President—Accounting, Controller and Chief Accounting Officer (Principal Accounting Officer).

177. Defendants' statements and omissions set forth in ¶¶160-176 were materially false and misleading when made because they failed to disclose and/or misrepresented the following adverse material facts, among others: (i) Chesapeake was in violation of its disclosure obligations pursuant to the federal securities laws, SEC regulations, and GAAP as specifically alleged herein; (ii) the Company did not design internal controls to provide reasonable assurance regarding the reliability of Chesapeake's public statements; (iii) the Company's "disclosure controls and procedures" were not "effective;" (iv) the Company was not "committed to strong corporate governance;" (v) McClendon's joint role as CEO and Chairman enabled McClendon to act in ways detrimental to the Company and its shareholders; (vi) McClendon's joint role as CEO and Chairman did not "best serve the interests of the Company and its shareholders;" (vii) McClendon concealed from the Board material terms of his personal loans and information concerning his conflicting interest; (viii) McClendon's FWPP financing created conflicts of interest, and the appearance of conflicts of interest; (ix) McClendon took for himself opportunities developed through use of his Company position and Company resources; (x) McClendon executed a personal financing strategy that diverged from the Company's interests; (xi) McClendon competed with the Company for access to limited capital in the market; (xii) the Company's filings did not "fairly present[], in all material respects, the financial condition and results of operations of Chesapeake"; (xiii) the Company's filings at issue

all contained "untrue statement[s] of a material fact or omit[ted] to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered" in violation of the securities laws and GAAP; (xiv) the Company's CEO and CFO did not "establish[] and maintain[] disclosure controls and procedures [] and internal control over financial reporting"; and (xv) and the Company did not disclose "all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information" in violation of the securities laws and GAAP.

178. Furthermore, with respect to Defendants' certifications filed with Forms 10-Q, 10-K, and 10-K/A, the filings did not present, in all material respects, the financial condition and results of operation of the Company in view of its material omissions with respect to (i) related party conflicts inherent in the FWPP program; (ii) undisclosed liabilities associated with VPP contracts; and (iii) internal controls and corporate governance deficiencies.

VI. <u>ADDITIONAL SCIENTER ALLEGATIONS</u>

A. <u>Imputed Knowledge Of Facts Critical To Core Operations</u>

179. Each of the Individual Defendants was a senior executive involved in Chesapeake's daily operations and with access to all material information regarding the Company's core operations. Therefore, each of the Individual Defendants is presumed to have had knowledge of all material facts regarding Chesapeake's core business.

180. Chesapeake's new strategic and financial plan to reduce debt and achieve an investment grade rating was a central theme throughout the Class Period, and repeatedly appeared in the Company's SEC filings, including, for example, Chesapeake's 2Q 2010 10-Q, signed and certified by Defendants McClendon and Rowland, in which Chesapeake announced:

> On May 10, 2010, we announced a strategic and financial plan designed to increase shareholder value, reduce long-term debt and ultimately achieve an investment grade rating for our debt securities. Since then, we have implemented multiple parts of the plan as noted below.

181. The Company was explicit about the way in which it would reduce its debt, stating, for example, in the MD&A section of its 2010 10-K: "We expect to achieve the reduction in debt through asset monetizations." The Company's eventual liquidity crisis (manifesting in part through its inability to execute the Eagle Ford VPP and its forced reliance on a $4 billion bridge loan), therefore, could not have been a surprise to the Individual Defendants, who nonetheless signed and certified statements attesting to the viability of the Company's asset monetization strategy throughout the Class Period.

182. Key shifts and updates in the Company's strategic and financial plan were announced throughout the Class Period, and signed and certified by many of the Individual Defendants. Thus, throughout the Class Period, the Individual Defendants knew that the success of the 25/25 plan was vital to the Company's business and investor expectations. Yet the Individual Defendants repeatedly misled the market, and allowed the Company to mislead the market, regarding the debts and liabilities associated with Chesapeake's various asset monetizations, including its VPP transactions.

183. Additionally, throughout the Class Period, the Individual Defendants repeatedly misled the Company's shareholders about the operation of the FWPP to align interests between the CEO and Company shareholders. This alignment was described as a central leadership strategy, and all of the Individual Defendants were aware of its uniqueness and importance to the Company. The FWPP also received considerable scrutiny prior to and throughout the Class Period from regulators and analysts; accordingly, the Individual Defendants knew or should have known of its structure and its actual failures to properly align the interests of the Company's CEO with its investors. As alleged above, these misstatements were repeated in Proxy statements, press releases, interviews, conference calls and various SEC filings throughout the Class Period.

B. GAAP And SEC Disclosure Obligations

184. As set forth herein, Defendants deliberately failed to disclose McClendon's related party transactions, in violation of GAAP and SEC regulations, and failed to disclose his pledge of executive compensation as collateral, in violation of disclosure obligations.

185. Further, Defendants' desire during the Class Period to perpetuate the myth that VPPs were successfully underpinning the Company's asset monetization strategy led Defendants to deliberately violate GAAP in preparing its financial statements. Specifically, Chesapeake fraudulently concealed the liabilities associated with the VPPs, which were required to be disclosed according to GAAP and SEC regulations. In addition, Chesapeake failed to make the required known trends and uncertainty disclosures in its MD&A, per Item 303 of Regulation S-K.

186. Defendants' failure to provide this critical information allowed them to fraudulently conceal the true state of Company affairs, and thus provides additional support that Defendants acted with scienter.

VII. CLASS ACTION ALLEGATIONS

187. Lead Plaintiff brings this action on behalf of itself and as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3), consisting of all persons and entities who purchased or acquired Chesapeake common stock during the Class Period, and who were damaged thereby (the "Class"). Excluded from the Class are: (a) Defendants; (b) members of the immediate families of the Individual Defendants; (c) the subsidiaries and affiliates of Defendants; (d) any person who is an officer, director or controlling person of Chesapeake; (e) any entity in which any Defendant has a controlling interest; (f) Defendants' directors' and officers' liability insurance carriers, and any affiliates or subsidiaries thereof; and (g) the legal representatives, heirs, successors or assigns of any such excluded party.

188. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Chesapeake stock was actively traded on the NYSE. While the exact number of Class members is unknown to Lead Plaintiff at this time and can only be ascertained through appropriate discovery, Lead Plaintiff believes that there are thousands of members in the proposed Class. Members of the Class may be identified from records maintained by Chesapeake or its transfer agent and may be notified of the pendency of this action by mail, using a form of notice similar to that customarily used in securities class actions.

189. Lead Plaintiff's claims are typical of the claims of the members of the Class, as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law complained of herein.

190. Lead Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation. Lead Plaintiff has no interests that are adverse or antagonistic to the Class.

191. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) Whether the federal securities laws were violated by Defendants' acts as alleged herein;

(b) Whether the SEC filings, press releases, reports and other public statements disseminated to Chesapeake's investors during the Class Period contained material misstatements or omissions;

(c) Whether, and to what extent, the market price of the Company's common stock was artificially inflated during the Class Period due to the non-disclosures and/or misrepresentations complained of herein;

(d) Whether Defendants acted with scienter;

(e) Whether reliance may be presumed pursuant to the fraud-on-the-market doctrine; and

(f) Whether the members of the Class have sustained damages as a result of the misconduct complained of herein, and, if so, the proper measure of those damages.

192. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this case as a class action.

A. Lead Plaintiff Is Entitled To A Presumption Of Reliance

193. Lead Plaintiff is entitled to a presumption of reliance under the "fraud on the market" doctrine based on Defendants' material misrepresentations and omissions for the following reasons:

- Chesapeake's common stock was actively traded in an efficient market on the NYSE during the Class Period. Chesapeake maintained over 600 million shares outstanding during the Class Period, and was traded with an average daily volume of 14.7 millions shares;
- As a regulated issuer, Chesapeake was required to, and did, file periodic public reports with the SEC;
- Chesapeake regularly communicated with public investors via established market communication mechanisms, including through regular dissemination of press releases on the major news wire services and through other wide-

ranging public disclosures, such as communications with the financial press, securities analysts and other similar reporting services;

- The market reacted promptly to public information disseminated by Chesapeake;
- Chesapeake was covered by over 30 securities analysts employed by major brokerage and research firms during the Class Period who wrote reports which were distributed to the sales force and certain customers of their respective firms. Each of these reports was publicly available and entered the public marketplace; and
- Without knowledge of the misrepresented or omitted material facts alleged herein, Lead Plaintiff and other members of the Class purchased Chesapeake stock between the time Defendants misrepresented or failed to disclose material facts and the time the true facts were disclosed.

194. In the alternative, typicality and predominance are supported because Lead Plaintiff is entitled to a presumption of reliance under *Affiliated Ute v. United States*, 406 U.S. 128 (1972), as the claims asserted herein against Defendants are primarily predicated upon omissions of material fact that there was a duty to disclose.

VIII. THE SAFE HARBOR PROVISION IS INAPPLICABLE

195. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to the allegedly false statements pleaded in this complaint. The statements alleged to be false and misleading herein all relate to then-existing facts and circumstances. To the extent certain of the statements alleged to be

false and misleading may be characterized as forward-looking, they were not adequately identified as "forward-looking" statements when made, and were not accompanied by meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor is intended to apply to any forward-looking statements pleaded herein, Defendants are liable for those false and misleading forward-looking statements because at the time each of those forward-looking statements was made, the particular speaker knew that the particular forward-looking statement was false and misleading, and/or the forward-looking statement was authorized and/or approved by an executive officer of Chesapeake who knew that those statements were false and misleading when made.

IX. CAUSES OF ACTION

FIRST CLAIM

Violation Of Section 10(b) Of The Exchange Act And Rule 10b-5(b) Promulgated Thereunder Against All Defendants

196. Lead Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

197. During the Class Period, Defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including Lead Plaintiff and other Class members, as alleged herein; (ii) artificially inflate and maintain the market price of Chesapeake common stock; and

(iii) cause Lead Plaintiff and other Class members to purchase Chesapeake common stock at artificially inflated prices.

198. In furtherance of this unlawful scheme, plan and course of conduct, Defendants took the actions set forth herein. Defendants made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading in an effort to maintain artificially high market prices for Chesapeake's common stock in violation of Section 10(b) of the Exchange Act and SEC Rule 10b-5. All of the Individual Defendants are sued either as primary participants in the wrongful and illegal conduct charged herein and/or as controlling persons as alleged below.

199. Defendants, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about the Company's asset monetization strategy, including the liabilities associated with its VPPs, as well as McClendon's personal loans, and Chesapeake's disclosure and accounting thereof.

200. Defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure shareholders of Chesapeake's value and performance and continued substantial growth. This included the making of, or the participation in the making of, untrue statements of material facts and omitting to state material facts necessary in order to make the statements made about Chesapeake in light of the circumstances under which they were made, not misleading, as set forth more particularly herein. Defendants engaged in transactions, practices and a course of

business which operated as a fraud and deceit upon the purchasers of Chesapeake common stock during the Class Period.

201. The Individual Defendants' primary liability, and controlling person liability, arise from the following facts: (i) they were each senior executives and/or directors during the Class Period and members of the Company's management team or had control thereof; (ii) each of these Defendants, by virtue of his responsibilities and activities as a high-level executive and/or director of the Company, was privy to and participated in the creation, development and reporting of the Company's internal budgets, plans, projections and/or reports; (iii) each of these Defendants was advised of and had access to other members of the Company's management team, internal reports and other data and information about the Company's finances and operations at all relevant times; and (iv) each of these Defendants was aware of the Company's dissemination of information to the investing public, which they knew, or recklessly disregarded, was materially false and misleading.

202. In addition to the verbal false statements specifically attributed to each Individual Defendant set forth herein, the Individual Defendants made false statements in publicly disseminated filings made with the SEC. McClendon signed and certified Chesapeake's false and misleading Form 10-K for fiscal years 2009, 2010, and 2011, the Form 10-K/A for fiscal year 2011, as well as its false and misleading Forms 10-Q for every quarter throughout the Class Period.

203. Dell'Osso signed and certified the following Chesapeake SEC filings: 2010 10-K; 2011 10-K; 2011 10-K/A; Q3 2010 10-Q; Q1 2011 10-Q; Q2 2011 10-Q; Q3 2011 10-Q; Q1 2012 10-Q.

204. Rowland signed and certified the following Chesapeake SEC filings during the Class Period: 2009 10-K/A; Q1 2009 10-Q; Q2 2009 10-Q; Q3 2009 10-Q; Q1 2010 10-Q; Q1 2010 10-Q/A; Q2 2010 10-Q and Q3 2010 10-Q.

205. During the Class Period, Johnson signed the following Chesapeake SEC filings: the 2009 10-K, 2010 10-K, and the 2011 10-K.

206. Mobley, in his capacity as Senior Vice President–Investor Relations and Research, made false and misleading statements and omissions on May 24, 2011 and March 27, 2012.

207. Hood, in his capacity as General Counsel, made false and misleading statements and omissions on April 30, 2009 and April 18, 2012.

208. In addition to the duties of full disclosure imposed on Defendants as a result of making affirmative statements and reports, or participation in the making of affirmative statements and reports to the investing public, they had a duty to promptly disseminate truthful information that would be material to investors, in compliance with GAAP and the integrated disclosure provisions of the SEC, as embodied in SEC Regulations S-K (17 C.F.R. §§ 229.01 et seq.) and other SEC regulations, including truthful, complete and accurate information with respect to the Company's operations and performance so that the market prices of the common stock would be based on truthful, complete and accurate information.

209. Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing Chesapeake's true financial condition from the investing public, and supporting the artificially inflated price of its common stock. As demonstrated by Defendants' misstatements and omissions about the Company's asset monetization strategy, including the liabilities associated with its VPPs, as well as McClendon's personal loans, and Chesapeake's reporting and accounting thereof, Chesapeake and the Individual Defendants, if they did not have actual knowledge of the misrepresentations and omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

210. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of Chesapeake's common stock was artificially inflated during the Class Period. Unaware that the market prices of Chesapeake's common stock were artificially inflated, and relying directly or indirectly on the false and misleading statements made by Defendants, or upon the integrity of the market in which the common stock trades, and/or on the absence of material adverse information that was known to or recklessly disregarded by Defendants but not disclosed in public statements by Chesapeake during the Class Period, Lead Plaintiff and the other members of the Class purchased or otherwise acquired

Chesapeake common stock during the Class Period at artificially high prices and were damaged thereby.

211. At the time of said misrepresentations and omissions, Lead Plaintiff and other members of the Class were unaware of their falsity, and believed them to be true. Had Lead Plaintiff and the other members of the Class and the marketplace known the truth regarding Chesapeake's Company's asset monetization strategy, including the liabilities associated with its VPPs, as well as McClendon's personal loans, and Chesapeake's reporting and accounting thereof, Lead Plaintiff and other members of the Class would not have purchased or otherwise acquired their common stock, or, if they had acquired such stock during the Class Period, they would not have done so at the artificially inflated prices which they paid.

212. By virtue of the foregoing, Defendants have violated Section 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder.

213. As a direct and proximate result of Defendants' wrongful conduct, Lead Plaintiff and the other members of the Class suffered damages in connection with their respective purchases and sales of the Company's common stock during the Class Period.

SECOND CLAIM

Violation Of Section 20(a) Of The Exchange Act
Against The Individual Defendants

214. Lead Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

215. The Individual Defendants acted as controlling persons of Chesapeake within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions, and their ownership and contractual rights, substantial participation in and/or awareness of the Company's operations and/or intimate knowledge of the false financial statements filed by the Company with the SEC and disseminated to the investing public, these Individual Defendants had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Lead Plaintiff contends are false and misleading. These Individual Defendants were provided with or had unlimited access to copies of the Company's reports, press releases, public filings and other statements alleged by Lead Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

216. In particular, the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, are presumed to have had the power to control or influence the particular transactions giving rise to the securities violations alleged herein, and exercised the same.

217. As set forth above, Chesapeake and the Individual Defendants each violated Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of Chesapeake's wrongful conduct, Lead Plaintiff and other members of the Class suffered

damages in connection with their purchases of the Company's common stock during the Class Period.

X. PRAYER FOR RELIEF

WHEREFORE, Lead Plaintiff prays for relief and judgment, as follows:

- Determining that this action is a proper class action and certifying Lead Plaintiff as class representative under Rule 23 of the Federal Rules of Civil Procedure;
- Awarding compensatory damages in favor of Lead Plaintiff and the other members of the Class against all Defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;
- Awarding Lead Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and
- Such other and further relief as the Court may deem just and proper.

XI. JURY TRIAL DEMAND

Lead Plaintiffs hereby demand a trial by jury of all issues so triable.

DATED: October 19, 2012

Respectfully submitted,

s/ *David Keesling*

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Certificate of Service

✓ I hereby certify that on (date) October 19, 2012, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants: (insert names)

Jeremy A. Lieberman
John E. Barbush
Alexander K. Talarides
Kenneth P. Herzinger
Lily I. Becker
M. Todd Scott
Robert P. Varian
Spencer F. Smith
Charles F. Alden, III
John W. Norman
L. Mark Bonner

☐ I hereby certify that on (date) ________________, I served the attached document by (service method) ________________________________ on the following, who are not registered participants of the ECF System: (insert names and addresses)

s/ David Keesling
s/ Attorney Name